



# LEGISLATIVE ASSEMBLY DEBATES

WEDNESDAY, 27th FEBRUARY, 1935.

Vol. II—No. 7

## OFFICIAL REPORT



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# LEGISLATIVE ASSEMBLY.

Wednesday, 27<sup>th</sup> February, 1935.

The Assembly met in the Assembly Chamber of the Council House at Four o'clock Mr. President (The Honourable Sir M. J. R. Khan) in the Chair.

## MEMBERS SWORN

Mr. William John Calvert Richard, M.L.A. (Burma European);  
and

Mr. Kodikal Sriniva Rao, M.L.A. (Government of India Nominated Official)

## QUESTIONS AND ANSWERS.

### SECURITY DEMANDED FROM PRESSES AND NEWSPAPERS.

590. \*Sardar Sant Singh: (a) From how many presses and newspapers was security demanded under the Press Act since its coming into force?

(b) In how many instances was this security declared forfeited?

(c) In how many instances were appeals filed, against the forfeiture of the security in the High Court and with what result?

(d) Is it a fact that the security is demanded by the Local Governments when a new declaration is filed after the old printer and publisher leaves the service of a newspaper?

The Honourable Sir Henry Craik: (a) to (c) The information is being collected from Local Governments and will be laid on the table of the House in due course.

(d) I would refer the Honourable Member to sections 3 (1) and 7 (1) of the Indian Press (Emergency Powers) Act, 1931.

Mr. S. Satyamurti: May I know if the Government confine prosecutions, under the Press Act, to writings, which promote or incite violence to person or property?

The Honourable Sir Henry Craik: That is a question which ought to be addressed to the Local Governments concerned.

Mr. S. Satyamurti: May I know if the Government of India have not an all-India policy in this matter?

**Prof. N. G. Ranga:** Since there is already a Central Famine Relief Committee organised on a non-political basis and it is trying to collect subscriptions and fodder from Northern Circars also, will the Government of India be prepared to consider the advisability of allowing freight concessions for the conveyance of fodder from the Northern Circars to the ceded Districts through the medium of this Relief Committee?

**Mr. G. S. Bajpai:** I have already answered the question, Sir. I have said it is for the Local Government to make suggestions to the Government of India and the Government of India will then consider those suggestions.

**Munshi Iswar Saren:** Will the Honourable Member kindly give us a rough idea of the contents of this descriptive report?

**Mr. G. S. Bajpai:** I can give my Honourable friend the text of the latest report from the Government of Madras.

'Six relief works in Anantapur and three relief works in Bellary in progress; also one test work in Anantapur and two test works in Bellary. Distress acute in Anantapur and increasing in Bellary. Cooly classes (*with apologies to my Honourable friend Mr. Sri Prasad*) in Anantapur and labouring and agricultural classes in Bellary mostly affected. Labourer freely resorting to works. No influx of foreigners. No banding or emigration. People on relief generally in good condition. Public health generally good except for small-pox prevailing in some villages of Anantapur. Fodder inadequate in parts. Hill grass being imported. Relief measures adequate. Loans being advanced. Numbers—relieved, Anantapur works, including test works, 10,035; Bellary including test works, 4,127.'

**Prof. N. G. Ranga:** Is it not a fact that the construction of Yerraguirpal-Nandyal Railway was proposed as one of the famine protection measures?

**Mr. G. S. Bajpai:** I have already answered that question. I said that in 1908-09, estimates were prepared and it was found that the return on it would be inadequate.

**Prof. N. G. Ranga:** Is it not a fact that in normal circumstances, even if the return were found to be inadequate, as a famine protection measure, it ought to be undertaken?

**Mr. G. S. Bajpai:** My answer to that is that I have dealt with the question from the point of view of the Railway authorities who deal with it as a commercial concern. The purely famine aspect of it is for the Madras Government.

**Prof. N. G. Ranga:** Is it not a fact that it is permissible even for the Government of India to consider the advisability of undertaking the construction of such railway as a famine protection measure?

**Mr. G. S. Bajpai:** I have already answered that question. I have told my Honourable friend that it is for the Local Government to take the initiative.

**Mr. President (The Honourable Sir Abdur Rahim):** Order, order. Next question.

FAMINE RELIEF MEASURES IN THE MADRAS PRESIDENCY.

592. **Mr. C. N. Muthuranga Mudaliar:** (a) Are Government aware whether any famine relief measures on behalf of Government have been taken in the Madras Presidency?

(b) How many relief centres have been opened and test works commenced?

(c) How many labourers are employed in each centre and what are the wages for male and female workers?

(d) Are all the relief works undertaken of a permanent nature and remunerative?

(e) Have Government undertaken any irrigation works as famine relief works at all?

(f) Are Government aware that the Irrigation Committee appointed thirty years ago by the Government of India, has recommended the Tungabhadra project as a permanent relief measure for the ceded Districts?

(g) Will Government be pleased to state why the Tungabhadra project was not taken up then, and whether it would be taken up at all, and if so, in what stage it is?

**Mr. G. S. Bajpai:** (a) (b), (c), (d) and (e) I have asked for detailed information from the Local Government and will communicate the result to the House in due course.

(f) and (g). I would refer the Honourable Member to the replies given by the Honourable Sir Frank Noyce to questions Nos. 265 and 266 on the 14th of this month and to connected supplementaries.

**Prof. N. G. Ranga:** In view of the fact that the Honourable the Commerce Member . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): This question has already been answered and there were supplementary questions to that answer. You want to put supplementary questions on those?

**Prof. N. G. Ranga:** This is in regard to the reply that the Honourable Member has given, and that answer is referred to . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): In that case the whole thing would become interminable. The Chair cannot allow that. Next question.

CERTAIN GUARDS IN THE MORADABAD DIVISION, EAST INDIAN RAILWAY.

593. **\*Mr. Muhammad Azhar Ali:** Are Government aware, and if not, are they prepared to make inquiries and state:

(a) whether it is a fact that the orders of the Railway Board conveyed in letter No. 9862-F., dated the 26th March, 1931, are never carried out by the Divisional Superintendent, East Indian Railway, Moradabad,

**DIFFERENT CADRES OF THE ESTABLISHMENT OF THE EAST INDIAN RAILWAY.**

598. **Mr. Muhammad Azhar Ali:** Is it a fact that under Fundamental Rule 9(4) "cadre" means the sanctioned strength of a service or of an establishment? If so will Government please state:

- (a) whether the establishment of the East Indian Railway is one cadre;
- (b) the names and nature of service of each cadre of the establishment of the East Indian Railway;
- (c) the sanctioned strength of each service on the East Indian Railway;
- (d) the sanctioned strength of the establishment of the East Indian Railway;
- (e) the sanctioned strength of the establishment or service divided into cadre; and
- (f) the sanctioned strength of each cadre of the establishment of the East Indian Railway?

**Mr. P. R. Rau:** The reply to the first part of the question is in the affirmative. As regards the second part:

- (a) No.
- (b) to (f) The information is so bulky that its collection will involve an amount of time and expenditure out of all proportion to its value.

**Dr. Ziauddin Ahmad:** May I know whether a printed list is not available?

**Mr. P. R. Rau:** The list containing the bulky information asked for in this question is not available.

**Dr. Ziauddin Ahmad:** The names ought to be in some establishment list and ought to be available?

**Mr. P. R. Rau:** If the reference is only to the superior services, then the information is probably available in a printed list, but, so far as I can see the Honourable Member asks for information about all the railway services in the East Indian Railway.

**Dr. Ziauddin Ahmad:** Are not the printed lists kept in the office of the Divisional Superintendent?

**Mr. P. R. Rau:** The Honourable Member asks for lists of the low paid staff also.

**Mr. Muhammad Azhar Ali:** Whatever is available—that is what I want.

**Mr. P. R. Rau:** I shall find out whatever is readily available.

**Dr. Ziauddin Ahmad:** The Divisional Superintendents ought to have these lists. Otherwise how can they prepare pay sheets?

**Mr. P. R. Rau:** In the case of the broken padst the information would be readily available.

**CONTROL OF THE CENTRAL SERVICES.**

599. **Mr. Muhammad Azhar Ali:** Is it a fact that under Fundamental Rule 4 the staff of central services are under the Governor General in Council?

**The Honourable Sir Henry Craik:** The staff of certain services is under the control of the Governor General in Council not by virtue of rule 4 of the Fundamental Rules but by virtue of the delegations made in the Civil Services (Classification, Control and Appeal) Rules and in the Railway Services (Classification, Control and Appeal) Rules. Rule 4 of the Fundamental Rules merely provides that the powers specifically granted by those Rules to Local Governments (in certain matters) may be exercised by the Governor General in Council in respect of all Government servants other than those under the administrative control of Local Governments.

**CONTROL OF THE SERVICES ON STATE RAILWAYS.**

600. **Mr. Muhammad Azhar Ali:** Is it a fact that the services, both gazetted and non-gazetted on State Railways in India are under the administrative control of the Governor General in Council?

**Mr. P. R. Rau:** Yes, Sir.

**ADMINISTRATIVE POWERS DELEGATED BY THE GOVERNOR GENERAL IN COUNCIL TO THE RAILWAY BOARD, AGENTS, ETC.**

601. **Mr. Muhammad Azhar Ali:** Will Government please state the extent to which the administrative powers are delegated by the Governor General in Council to the Railway Board, the Agents, the Heads of Departments, the Divisional Superintendents, Superintendents (Transportation, Staff, Commercial, Power, Watch and Ward, Way and Works, etc.), Assistant Superintendents (Transportation, Staff, General, Commercial, Power, Watch and Ward, Way and Works, etc.); Supervisors, Inspectors, Controllers, Shed Foreman, Station Masters, Assistant Station Masters, clerks, etc., in respect of matters affecting personnel and establishment?

**Mr. P. R. Rau:** The information required is contained in various orders and codes and Government consider that the collection of these details will involve an amount of labour and expense out of all proportion to any possible advantage that can be gained thereby.

**TRANSFER OF CONTROL OF THE RAILWAY SCHOOL OF TRANSPORTATION, CHANDAUSI, TO THE AGENT, EAST INDIAN RAILWAY.**

602. **Mr. Muhammad Azhar Ali:** (a) Will Government please state the date on which the transfer of the Railway School of Transportation at Chandausi from the control of the Railway Board to the control of the Agent, East Indian Railway, was effected?



(b) Will Government please lay on the table of this House a copy of the terms of transfer of control of the Railway School of Transportation at Chandausi from Railway Board to East Indian Railway?

(c) Will Government please lay on the table a statement showing the authority under which the part of the staff of the Railway School of Transportation at Chandausi appointed by the Railway Board, can be revised, in full, absorbed by the East Indian Railway?

(d) Will Government please state the date from which the Agent, East Indian Railway Circular No. A. E.-2027 of the 8th October, 1930, is operative in regard to the staff of the Railway School of Transportation at Chandausi?

(e) Will Government please state the authority under which the Agent, East Indian Railway Circular No. A. E.-2027 of the 8th October, 1930, is made applicable with retrospective effect to the staff of the Railway School of Transportation at Chandausi?

**Mr. P. R. Rau:** (a) The orders were issued by the Railway Board in February, 1933.

(b) No special terms were drawn up.

(c) The orders of the Railway Board transferring the school to the control of the Agent are sufficient authority.

(d) and (e). I am obtaining information regarding the Agent's circular letter referred to and will lay a reply on the table of the House in due course.

**Prof. N. G. Ranga:** Why was the school transferred from the control of the Railway Board to the management of the Railway Company?

**Mr. P. R. Rau:** The Agent of the East Indian Railway is subordinate to the Railway Board. The school was transferred in 1932 to the control of the East Indian Railway Administration, because it was decided that it should deal only with the staff of the East Indian Railway. Formerly, the staff of other railways also were trained in that school.

**Prof. N. G. Ranga:** Is there a separate school for the staff of every railway under the control of the Railway Board?

**Mr. P. R. Rau:** Not directly under their control. Each Railway Administration arranges for the training of its own staff.

**Prof. N. G. Ranga:** Are there different schools like that?

**Mr. P. R. Rau:** Yes.

**Mr. M. S. Aney:** Can the railways which are managed by the State directly start schools without consulting the Railway Board?

**Mr. P. R. Rau:** Each railway has got its own school.

**Mr. M. S. Aney:** Are the schools maintained under the express orders of the Railway Board?

**Mr. P. R. Rau:** Oh, yes.

CONTROL OF THE FINANCIAL COMMISSIONER OF RAILWAYS OVER THE  
EXPENDITURE FROM RAILWAY REVENUES.

603. **Mr. Muhammad Azhar Ali:** (a) Is it a fact that the Financial Commissioner of Railways in India has no control over the expenditure from Railway revenues?

**The Honourable Sir James Grigg:** With your permission, Sir, I shall reply to questions Nos. 603 and 604 together. The Honourable Member is quite mistaken in thinking that the Financial Commissioner of Railways has no control over the expenditure of railway revenues and that he has never exercised any check on such expenditure. The position is set out in a minute, a copy of which I lay on the table, by Sir Alan Parsons, which was placed before the Committee which considered the separation of railway from general finances in 1924. The checks and control referred to in this have been exercised by the present Financial Commissioner just as effectively as they have been by his predecessors since 1922.

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*Minute by the Financial Commissioner, Railways, on the financial control and accounts of railway operations*

I was asked at the last meeting of the sub-committee to let them have a note on this subject; and I understand that the questions on which some members of the sub-committee feel some doubt are:—

- (i) whether financial control is as adequately secured by having a Financial Commissioner as a member of the Railway Board as having a Financial Adviser or similar officer a member of the Finance Department outside the Board, or, as used to be the practice, by requiring some of the proposals of the Railway Board to be referred to the Finance Department; and
- (ii) whether the separation of railway accounts and audit, which is being investigated, will weaken financial control

2. I must point out that neither of these questions has any bearing on the separation of railway from general finances. Effective financial control is equally desirable whether railway revenues and expenditure do or do not form part of the general budget; under either system the question is merely how that control can best be secured. The separation of accounts and audit may be found desirable, in order that the accounts may be of greater assistance to the administration; but if so it will be equally desirable whether railway finances are separate or not.

3. The doubts that have been expressed on the subject of financial control are due, I think, to a misunderstanding of the functions and position of the Financial Commissioner, Railways, which an explanation of them can remove.

Apart from the usual functions of a member of the Railway Board, the Financial Commissioner has certain special powers:—

- (a) No proposals involving expenditure, or affecting railway revenues, can be adopted until he has accepted them. This applies equally to small matters, such as the grant of an allowance to an employé or the addition of a clerk to an office, and to the large projects involving the expenditure of many lakhs.

(b) If on any question his view does not coincide with those of the Chief Commissioner or of the Railway Department, he has the right to refer it to the Finance Member.

(c) He has also the right of free access to the Finance Member, and so can, and does, refer to him all matters of an equivalent importance to those which would be referred to him by the Finance Secretary or a Financial Adviser in other departments—those in fact in which he does not think it would be right for him to act on his own responsibility. In practice the Finance Member discusses with him in their initial stages, all questions of major importance so that he has the Finance Member's general instructions to guide him in dealing with them.

4. The control which he exercises is actually much greater than could be exercised by a Financial Adviser, or used to be exercised when Railway Department cases were referred to the Finance Department. (I may perhaps mention that I speak from actual experience of the other two methods)—

(a) The Railway Board has extensive powers, some of them statutory, in matters involving expenditure. For example they can without reference to the Finance Department sanction schemes costing from 18 to 20 lakhs; and in the aggregate such projects amount to a very considerable portion of their expenditure. As a member of the Railway Board, the Financial Commissioner can, and does "vet" all such proposals; and if he does not accept them he has (which he would not have under any other system) exactly the same powers as in dealing with proposals to which the concurrence of the Finance Department used to be obtained.

(b) This is a direct, measurable and very important accession of financial control. But personally I attach as great, and even greater, importance to the fact that the position of the Financial Commissioner as a member of the Board enables him :—

(i) to deal with proposals in their initial stages before they have taken final shape and to apply financial considerations in helping to shape them;

(ii) to refer to, and discuss with, any railway officer any points arising out of any proposal;

(iii) to examine or initiate proposals aimed at improving revenue. It is at least as important to have control over revenue as expenditure.

(c) As a member of the Board the Financial Commissioner is able to acquire a knowledge of the technical problems involved in the working of railways which he could not acquire in any other capacity, and which he must have if he is to exercise financial control effectively.

The real point, which I am sure members of the sub-committee will recognise, is that financial control is much more detailed, more immediately effective, and more authoritative if exercised from within than from without.

5. I can deal much more briefly with the accounts matter. Under the scheme which is being investigated the administrative authorities would be responsible for the form in which the accounts are compiled, and the actual compilation, and also for an initial audit of all transactions; and there would be a further audit (including a scrutiny of the manner in which the accounts were compiled and kept) by officers under the Auditor General. The idea has many attractions: a somewhat similar system is, I believe, in vogue in England, and has proved successful; and a system of the kind is already in force on Companies' lines in India. But a certain amount of additional audit and accounting staff will be needed; and we shall have to consider very carefully whether the advantages of the scheme are worth the extra cost. The whole matter is still under examination and no conclusion of any kind has yet been reached; and in any event, if it is decided to go on with the scheme, the matter will have to come before the Standing Finance Committee.

A. A. L. PARSONS,

August 28th, 1934.

Financial Commissioner, Railways.

**Dr. Ziauddin Ahmad:** Does the Financial Commissioner supervise the railway finances on behalf of the Finance Department of the Government of India?

**The Honourable Sir James Grigg:** That is rather a difficult constitutional question to answer offhand. In some respects, he is responsible to me and in some respects to the Honourable the Commerce Member. If the Honourable Member wants a detailed answer, he had better put down a question.

**Prof. N. G. Ranga:** Is it half and half?

**The Honourable Sir James Grigg:** I would not like to try and do a Solomon's judgment on the Financial Commissioner.

**Mr. S. Satyamurti:** Apart from the dual responsibility, may I know whether the railways in India have more independence in respect of expenditure of revenues sanctioned by this House than other Departments of the Government of India.

**The Honourable Sir James Grigg:** Not at all.

**Mr. S. Satyamurti:** Is it open to the Finance Department to control the railway expenditure, just as they control other items of expenditure sanctioned by this House?

**The Honourable Sir James Grigg:** In method No, in substance Yes.

**Mr. S. Satyamurti:** What is the difference between that?

**The Honourable Sir James Grigg:** The difference in method is simply this that general proposals for expenditure are submitted to the Finance Department direct. Proposals relating to railway expenditure are submitted to the Finance Member by the Financial Commissioner of Railways.

**Mr. S. Satyamurti:** When they come to the Finance Member, is there any difference in the nature and the extent of the control exercised by the Finance Member over railway expenditure as opposed to other expenditure?

**The Honourable Sir James Grigg:** So far as principle is concerned, none.

**Prof. N. G. Ranga:** Is it open to the Finance Member to say, when foreign materials are used by the railways, that Indian substitutes should be used?

**The Honourable Sir James Grigg:** That does not seem to arise out of this.

**Dr. Ziauddin Ahmad:** Is the Finance Member responsible to this House or to the Government of India for the good finances of the railways?

**The Honourable Sir James Grigg:** As I said just now, if the Honourable Member wants answers to a series of constitutional questions, he had better put them down in paper, and I will try to give him the answers.

**CHECK OF THE FINANCIAL COMMISSIONER OF RAILWAYS ON THE  
EXPENDITURE FROM RAILWAY REVENUES.**

604. **Mr. Muhammad Azhar Ali:** (a) Is it a fact that the Financial Commissioner of Railways in India never exercised any check on the expenditure from Railway revenues?

(b) If the reply to part (a) be in the negative, will Government please state the nature of check exercised by him during the years 1933, 1934 and 1935?

**MADRASI GAZETTED OFFICERS ON STATE RAILWAYS.**

605. **Mr. Muhammad Azhar Ali:** Will Government please state the percentage of Madras gazetted officials on the State Railways in India by departments?

**Mr. P. E. Rau:** The information required can be obtained by the Honourable Member from the "Classified List of State Railway Establishment and Distribution Return of Establishment of all Railways", corrected up to the 31st December, 1933, a copy of which is in the Library of the House.

**APPOINTMENT OF MR. V. S. SUNDARAM AS AN OFFICER OF SELECTION  
GRADE UNDER THE FINANCIAL COMMISSIONER OF RAILWAYS.**

606. **\*Mr. Muhammad Azhar Ali:** Will Government please state the circumstances under which Mr. V. S. Sundaram, a class II officer in his substantive capacity, is appointed an officer of Selection Grade under the Financial Commissioner of Railways?

**The Honourable Sir Joseph Bhore:** Mr. Sundaram was selected by Government for the post of Controller of Railway Accounts as he was considered the most suitable of the officers available who had the requisite experience.

**ERRORS OF THE ACCOUNTS DEPARTMENT RECTIFIED BY THE FINANCIAL  
COMMISSIONER OF RAILWAYS.**

607. **\*Mr. Muhammad Azhar Ali:** Will Government please state the particulars of errors of the Accounts Department rectified during the years 1932, 1933, 1934 and 1935 by the Financial Commissioner of Railways?

**Mr. P. E. Rau:** I am not sure that I understand the Honourable Member's question exactly, but I can assure him that mistakes and irregularities, brought to notice by the Audit Department or otherwise, are rectified as soon as possible.

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†For answer to this question, see answer to question No. 603.

**Dr Ziauddin Ahmad:** May I just know the nature of the mistakes that may be thus rectified? Are these mere clerical errors that are rectified or more serious errors? What is the nature of these errors?

**Mr. P. R. Rau:** I think my Honourable friend might ask that question of Mr Azhar Ali. (Laughter.)

CLASSIFICATION OF DISPENSARIES UNDER THE EAST INDIAN RAILWAYS.

608. **\*Mr. Muhammad Azhar Ali:** Will Government please state the classification of dispensaries, with the strength, grades and classes of the staff under the East Indian Railway administration?

**Mr. P. R. Rau:** The information has not been compiled and Government do not consider any useful purpose will be served by collecting it.

OLD OUDH AND ROHILKUND RAILWAY SUB-ASSISTANT SURGEONS SERVING ON THE EAST INDIAN RAILWAY.

609. **\*Mr. Muhammad Azhar Ali:** Will Government please state the number of old Oudh and Rohilkund Railway Sub-Assistant Surgeons serving on the East Indian Railway Company Section and *vice versa*?

**Mr. P. R. Rau:** With your permission, Sir, I propose to reply to questions Nos. 609 and 610 together. Government have no information. They must leave it to the Agent to regulate transfers according to the needs of the service.

EAST INDIAN RAILWAY SUB-ASSISTANT SURGEONS SERVING ON THE OLD OUDH AND ROHILKUND RAILWAY.

610. **\*Mr. Muhammad Azhar Ali:** Will Government please state the grades of the East Indian Railway Company's Sub-Assistant Surgeons serving on the old Oudh and Rohilkund Railway Section and *vice versa*?

PRICES OF SUGAR AND SUGAR CANE AT CERTAIN PLACES.

611. **\*Dr. Ziauddin Ahmad:** (a) What was the price of sugar on the 10th February or about that date at Cawnpore, in the Delhi market, and at factories?

(b) At what price do factories purchase sugarcane?

**Mr. G. S. Bajpai:** I lay a statement on the table, Sir.

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†For answer to this question, see answer to question No. 608.

*Statement.*

(a) *Cawnpore* : Price per maund of sugar on 9th February, 1935, in Cawnpore market on factory delivery basis :

Maund - Rs. 9.12 6

Maund - Rs. 8.5 3

Maund - Rs. 8.0 0

*Bihar* : Price per maund of sugar on 9th February, 1935, in Bihar market on factory delivery basis :

Maund - Rs. 6.10 0

Maund - Rs. 5.10 0

Maund - Rs. 4.10 0

(b) The price of sugar cane being purchased by sugar factories is as follows :

United Provinces (Western districts) 6 to 6½ annas per maund.

United Provinces (Eastern districts) 6 annas per maund.

Bihar and Orissa 5 to 5½ annas per maund.

**Dr. Ziauddin Ahmad:** May I know the answer to part (d) of the question?

**Mr. G. S. Bajpai:** Well, Sir, if my Honourable friend wants to know at what price the sugar-factories purchase sugarcane, that is included in this statement. That is, at 6 to 6½ annas per maund in the western districts of the United Provinces, six annas per maund in the eastern districts of the United Provinces, and at 5 to 5½ annas per maund in Bihar and Orissa.

**Dr. Ziauddin Ahmad:** May I know whether it is a fact that they purchase at the rate of six annas and not at five annas, because my information is that it is five annas?

**Mr. G. S. Bajpai:** No, Sir. That is the information which has been supplied to me by the Sugar Technologist.

**Dr. Ziauddin Ahmad:** And by the Local Government?

**Mr. G. S. Bajpai:** Yes, he has made inquiries not merely from the Local Government but individually from factories.

**Prof. N. G. Ranga:** Was any action taken to consult local authorities on the question of the price adopted and paid to the peasants in these factories?

**Mr. G. S. Bajpai:** I have got a question about that immediately afterwards.

**Mr. B. Das:** Is not a part of the price of sugarcane refunded as a sort of concealed rebate to the sugar manufacturers?

**Mr. G. S. Bajpai:** No, Sir. I do not think there is any concealed rebate given to the sugar manufacturers.

**Mr. B. Das:** Did not Government receive such reports, and was it not mentioned on the floor of this House that this was the practice in Bihar and Orissa?

**Mr. G. S. Bajpai:** I believe, Sir, in the course of discussion last year the same statements were made.

**Mr. B. Das:** Did Government take steps to inquire whether the sugar-cane growers were being molested or not by the sugar-manufacturers?

**Mr. G. S. Bajpai:** I believe in the course of his reply Sir George Scott had dealt very cautiously with that suggestion.

#### PROFIT AND LOSS ACCOUNT OF A SUGAR FACTORY

**612. Dr. Ziauddin Ahmad:** (a) Have Government seen the profit and loss account of any sugar factory?

(b) If so, what is the profit after providing 7½ per cent. for depreciation and four per cent. towards working capital?

**Mr. G. S. Bajpai:** (a) and (b). There has been no official examination of such accounts since the last Tariff Board Enquiry.

**Dr. Ziauddin Ahmad:** Did Government ever consider the advisability of inquiring from this particular industry about the profits which they are deriving under this protective duty?

**Mr. G. S. Bajpai:** Well, Sir, that question was gone into very carefully last year when the question of imposing an excise was being considered, and, as my Honorable friend is aware, there are two sides of the story. There are those who think that more than a reasonable rate of profit is being derived by the factories, and, on the other hand, there is an impression amongst a great many people that even the rate of profit suggested by the Tariff Board is not being derived.

**Dr. Ziauddin Ahmad:** Sir, in view of the difference of opinion which the Honorable Member has just mentioned, is it not desirable in the interest of the taxpayer that we should know the actual facts, and will not the Honorable Member take steps to find that out?

**Mr. G. S. Bajpai:** That, Sir, is really asking for an expression of opinion.

**Dr. Ziauddin Ahmad:** Will Government find out the actual facts?

**Mr. G. S. Bajpai:** Government have no reason to believe that the factories are deriving a higher rate of profit than was considered reasonable by the Tariff Board.

**Prof. N. G. Ranga:** Have the Government of the United Provinces fixed any minimum price that should be paid?

**Mr. G. S. Bajpai:** As far as I am aware, the Governments of the United Provinces and of Bihar and Orissa have fixed minimum prices.

**Prof. N. G. Ranga:** Will the Honourable Member please supply us with that information?

**Mr. G. S. Bajpai:** Certainly, Sir.



**CALCULATION OF THE PRICE OF SUGAR-CANE BY THE UNITED PROVINCES  
(GOVERNMENT).**

**613. Dr. Ziauddin Ahmad:** (a) Are Government aware that the United Provinces Government, in calculating the price of sugarcane, did not allow an anna per maund recommended by the Susar Tariff Board?

(b) If so, are Government prepared to raise the excise duty on sugar by one anna per maund?

**Mr. G. S. Bajpai:** (a) The price fixed is a minimum price irrespective of the quantity of sugar recovered from the cane.

(b) No.

**Dr. Ziauddin Ahmad:** May I draw the attention of the Honourable Member to the fact that the Tariff Board specially recommended that one anna extra may be given over and above the calculated price so long as that special duty lasts, and that being so, may I know whether this one anna extra is being given to sugar-cane growers?

**Mr. G. S. Bajpai:** Sir, the Tariff Board took the figures which were suggested as a minimum by the Sugar Committee in 1918, and their idea was that the cane-grower should have a minimum price of seven annas. But that recommendation was made in conditions when they felt that at a lower price there would not be an assured supply of sugar-cane to the factories. That is not the position today.

**Dr. Ziauddin Ahmad:** My Honourable friend referred to the Report of 1918. What about the later report, the sugar tariff report? Is it not a fact that they explicitly mentioned that one anna extra should be given to the sugar-cane cultivators?

**Mr. G. S. Bajpai:** That is perfectly true, but, as I have tried to explain to my Honourable friend, that recommendation, which was based on the recommendation made by the Sugar Committee, was intended to ensure a regular supply of cane to the factories. In other words, they were under the impression that the factories would be competing for cane, whereas, as a result of the extension of the area under cane, the position today is that cane is competing for buyers. (Laughter.)

**Dr. Ziauddin Ahmad:** Is it not a fact that the protection was given to the sugar industry on the recommendation of the Tariff Board and not on the recommendation of the Sugar Committee? And is it not a fact that they recommended that one anna extra should be given to sugar-cane growers over and above the calculated price? According to the formula they gave, may I ask whether that one anna recommended by the Tariff Board was or was not given to the sugar-cane growers?

**Mr. G. S. Bajpai:** Well, Sir, as my Honourable friend is aware, the business of fixing prices for sugar-cane has been left to Local Governments. The Local Governments have to take into account all the relevant considerations, and I submit that there is no reason to assume that the prices that they fix are not adequate.

**Dr. Ziauddin Ahmad:** May I just ask one more question? Is it not the case that the Local Governments may possibly take the advice of one category or people? In fact they did so in the United Provinces. Are you, therefore, justified in saying that the recommendations of the Tariff Board are carried out?

**Mr. President** (The Honourable Sir Abdur Rahman): That is really arguing. Next question.

**EFFECT OF EXCISE DUTY ON *KHANDSARI* SUGAR.**

**614. \*Dr. Ziauddin Ahmad:** (a) Will Government be pleased to inform this House of the effect of excise duty on *Khandsaris*?

(b) Is it a fact that they are closing down on account of excise duty?

(c) What is the margin of profit of *Khandsaris* as compared with sugar factories?

**Mr. A. J. Raisman:** (a) I would invite the attention of the Honourable Member to Section XIII of the Review of the Sugar Industry of India, published as a Supplement to the *Indian Trade Journal*, dated the 5th July, 1934. The *Khandsari* season has only recently begun and it is too early to give any further information.

(b) It is reported that a number of open pan factories are not working this year but it is impossible to say to what extent this is due to competition with modern vacuum pan factories, to the fall in sugar prices or to the excise duty. I would add that a substantial portion of the *Khandsari* industry does not come within the definition of a factory and is in consequence exempt from the excise duty.

(c) In March last, the profit of a *Khandsari* factory was estimated at seven annas four pies per maund and that of a modern factory at one rupee five pies per maund. No later estimates are available.

**Dr. Ziauddin Ahmad:** Will the Honourable gentleman now find out from the Local Governments about the condition of these *khandsaris*? My information is that they are all closing down on account of this excise duty. Will he make inquiries from Local Governments?

**Mr. A. J. Raisman:** Well, Sir, in connection with other questions that have been put down on the paper, I have made certain inquiries from the Local Governments, but it is extremely difficult to find out what is the actual position. But I shall be giving a reply on this subject later on.

**AMOUNT REALISED AS CUSTOMS DUTIES AND COLLECTION OF CUSTOMS REVENUE IN THE KATHIAWAR STATES.**

**615. \*Dr. Ziauddin Ahmad:** (a) Will Government be pleased to state the amount realised from the various States in Kathiawar on account of the customs duties on goods re-exported from Kathiawar?

(b) Is there any unrealised amount from Jamnagar or any other Kathiawar State?

(d) Is it a fact that none of the Indian King's Commissioned Officers who had to leave the Army for good attained the rank of a Major?

(e) Is it a fact that those gentlemen who had thus to leave the Army passed two examinations, viz., the entrance examination held by the Public Service Commission in India and then graduated at the Royal Military College at Sandhurst?

(f) Is it also a fact that they had to pass the retention examination before they were confirmed?

(g) Is it a fact that some of them had passed even the promotion examination?

(h) Will Government be pleased to state how or why they were found to be unfit for military service after many years service?

(i) Are Government aware of the fact that there is a strong feeling both among the sufferers as well as the public that frivolous excuses are put forward to remove Indian King's Commissioned Officers before they attain high positions and rank?

**Mr. G. R. F. Tottenham:** (a) 197.

(b) Four.

(c) Two died after about a year's service.

Two resigned their commissions after about two years' service.

(d) Yes.

(e) Yes.

(f) Officers are required to pass the retention examinations within three years from the date of their appointment to the Indian Army.

(g) No.

(h) Does not arise.

(i) No and such a feeling could in no sense be justified by the figures I have quoted.

**Dr. G. V. Deshmukh:** May I ask, Sir, how many British gentlemen took the King's Commission during the same period?

**Mr. G. R. F. Tottenham:** I am afraid I shall have to ask for notice of that question. I have not got these figures in my head.

**Srijut N. C. Bardoloi:** May I ask, Sir, how many gentlemen have been appointed since 1917?

**Mr. G. R. F. Tottenham:** I must ask for notice of that question. The Honourable Member's question here refers to recruitment since 1927, and I have given the answer to that.

**Mr. S. Satyamurti:** With reference to answer to clause (d) of the question, may I know the reasons why none of the Indian King's Commissioned Officers ever reached the rank of a Major?

**Mr. G. R. F. Tottenham:** Some of them have, for instance, in the I. M. S.

**Mr. B. Das:** May I ask, Sir, how many Indian Majors there are in the Indian army?

**Mr. G. R. F. Tottenham:** I must ask for notice of that question.

**Mr. B. Das:** Is it not a fact that some of the officers who were recruited from the Indore College were asked to leave the service because they were going to be promoted to the rank of the Major?

**Mr. G. R. F. Tottenham:** Certainly not.

**Srijut N. C. Bardaloi:** There are about 180 officers appointed since 1917. May I know, how many of them have retired?

**Mr. G. R. F. Tottenham:** Since 1927, there have been 137 officers, of whom four have left the Army, two have died and two resigned of their own accord.

#### RECRUITMENT OF CADETS FOR TRAINING IN THE INDIAN MILITARY ACADEMY.

617. **Srijut N. C. Bardaloi:** (a) Will Government be pleased to state whether it is a fact that in recruiting cadets for training in the Indian Military Academy some are recruited from the ranks and others by open competitive examinations?

(b) Will Government please state how many among those recruited by examinations have been turned out as being unsuitable?

(c) Do Government propose to hold competitive examinations confined to themselves in the case of cadets taken from the ranks of the Army as in the case of others?

**Mr. G. R. F. Tottenham:** (a) Yes.

(b) Four.

(c) No. The Honourable Member's attention is invited to the answer, I gave on the 5th February, 1935, to parts (c) and (e) of Sardar Sant Singh's question No. 32.

#### POST OF THE ASSISTANT MASTER GENERAL OF ORDNANCE.

618. **Srijut N. C. Bardaloi:** (a) Will Government be pleased to state the reason leading to the alteration in the designation of the post at Army Headquarters, formerly called "Assistant Director of Technical Organisation" and now styled "Assistant Master General of Ordnance"?

(b) Will Government please state what the pay is of the present Assistant Master General of Ordnance and his substantive military rank?

(c) Will Government please state the amount of expenditure incurred in importing from England the officer to fill the appointment of Assistant Master General of Ordnance at Army Headquarters and whether this expenditure could not have been saved had an Indian Officer been posted instead?

(d) What are the reasons for the substitution of an Indian Army Officer by a British Service Officer?

**Mr. G. R. F. Tottenham:** (a) The latter title describes his duties more appropriately.

(b) The present incumbent is a Brevet Lieutenant-Colonel. His total emoluments are Rs. 2,045 per month.

(c) No extra expenditure was involved. Apart from this, however, no Indian officer yet possesses the necessary staff qualifications for the appointment.

(d) His Excellency the Commander-in-Chief selects officers to fill staff appointments from those, both in the British Service and the Indian Army who have passed through the Staff College. It so happens that a British Service officer was selected as the first holder of this appointment after its title was changed.

**Mr. S. Satyamurti:** What are the staff qualifications prescribed?

**Mr. G. R. F. Tottenham:** Passing through the Staff College.

**Mr. S. Satyamurti:** Is there no Indian Army Officer who has passed through the Staff College, in order to fit himself for these appointments?

**Mr. G. R. F. Tottenham:** I think there is one Indian officer who was at the Staff College. He may have passed out or he may not have. I am not sure.

**Mr. S. Satyamurti:** Is there any attempt being made to increase the number of Indians with a view to filling these appointments by Indians?

**Mr. G. R. F. Tottenham:** I do not think we can increase the number of Indians. It is left to them to go in for the Staff College examination. His Excellency the Commander-in-Chief is prepared to nominate those who qualify for the Staff College, but we cannot put people through the Staff College unless they have passed its examination.

**Mr. S. Satyamurti:** Is there any racial discrimination at all in the selection of persons from this Staff College? Will he choose Indians in preference to Europeans if they offer themselves for this Staff College course?

**Mr. G. R. F. Tottenham:** That position has not yet arisen.

**Mr. S. Satyamurti:** Will the Army Department take any steps to facilitate this process of Indianisation of the Army?

**Mr. G. R. F. Tottenham:** We cannot take steps to compel Indian officers of the Indian Army to pass the Staff College examinations.

#### CAMP OFFICE CHARGE HELD BY A TECHNICAL MILITARY CLERK IN THE ORDNANCE BRANCH AT DELHI.

619. **\*Srijut N. C. Bardoloi:** Is it a fact that in the camp office of the Ordnance Branch at Delhi, a technical military clerk holds charge of the office in preference to a senior Indian Superintendent? If so, what are the reasons?

**Mr. G. R. F. Tottenham:** No.

DUTIES OF THE TECHNICAL MILITARY CLERKS IN THE MASTER GENERAL OF ORDNANCE BRANCH.

620. \***Srijut N. C. Bardaloi:** Is it a fact that technical military clerks of the M. G. O. Branch at Army Headquarters have nothing to do with non-technical ministerial duties in that office?

**Mr. G. R. F. Tottenham:** No. It is impossible to draw a hard and fast line between technical and non-technical ministerial duties in any office, and Government are content to leave it to the Master General of Ordnance to allot the duties of the various members of the clerical establishment of his Branch.

INSTITUTION OF THE RAILWAY CLEARING ACCOUNTS OFFICE AT DELHI.

621. \***Dr. N. B. Khare:** (a) Will Government please state the advantages obtained by instituting the Railway Clearing Accounts Office at Delhi?

(b) Are Government aware of the views expressed by the Railway Retrenchment Sub-Committee of the Retrenchment Advisory Committee in their report at pages 27 to 29 to abolish the Railway Clearing Accounts Office; and if so, what is their decision in the matter?

(c) Is it a fact that the assumption that the institution of this office results in saving and that there are other advantages, has been questioned by the various Chief Accounts Officers of the Railways, who have joined in this scheme?

(d) Is the Director of the Railway Clearing Accounts Office now prepared to accept the validity of these objections?

(e) What saving in expenditure has been made, in consequence of the views expressed in the Report of the Railway Retrenchment Sub-Committee on the expenditure of the Accounts and Audit, and especially on the Railway Clearing Accounts Office; and Chief Auditor's Office of the Railway Clearing Accounts Office?

**Mr. P. R. Rau:** (a) The Honourable Member's attention is invited to the Memorandum on the Railway Clearing Accounts Office prepared in 1931 by the Director for the Railway Sub-Committee of the Retrenchment Committee; a copy of which is available in the Library of the House.

(b) What the Committee recommended was that if the Railway Clearing Accounts Office was to be retained the cost should be reduced by at least one lakh of rupees per annum.

(c) Certain items in the estimate of saving were questioned in 1931 by the Chief Accounts Officers concerned but these objections were found to be either not valid or not of sufficient importance to alter the substantial results.

(d) No.

(c) Comparing the accounts of 1933-34 with those of 1931-32 it is found that annual savings of Rs. 1,22,000 have been effected in the Railway Clearing Accounts Office and Rs. 12,400 in the Chief Auditor's Office. The actual savings are higher because the normal expenditure has since grown on account of annual increments of pay and there has also been some addition to the work.

**Dr. Ziauddin Ahmad:** In view of the fact that there was a note in the report of the Retrenchment Committee that this transfer of money from one railway to another railway may be calculated on an average basis and an yearly payment may be made in lump sum and also in view of the fact that such a step was taken by the Railway Board in the calculation of the Depreciation Fund, may I ask the Government whether the time has not come for them to find out some kind of an average sum which each railway may pay to the other railways in the light of the experience of ten years income and expenditure?

**Mr. P. R. Rau:** It was found that the figures varied so much from year to year that the average was not likely to be accurate. Until all the State Railways are amalgamated, it would be difficult to depend upon any formula for dividing the earnings to be exact for a number of years.

**Dr. Ziauddin Ahmad:** Are these variations much greater than the variations in the depreciation fund for which they have found out a working formula, that is one-sixtieth of the capital at charge?

**Mr. P. R. Rau:** I have not compared those variations in the earnings with the other variations in the appropriation to the depreciation fund; it is impossible to say at a moment's notice how they compare with each other.

**Dr. Ziauddin Ahmad:** May I ask the Honourable Member to take up this question and compare it? If the variations are without limits, then adopt the same principle for this as has been adopted in the case of the depreciation fund.

**Mr. P. R. Rau:** I will consider that question.

#### CONSTRUCTION OF QUARTERS FOR THE STAFF OF THE RAILWAY CLEARING ACCOUNTS OFFICE.

622. **Dr. N. B. Khare:** (a) Are Government aware that the staff of the Railway Clearing Accounts Office has been put to hardship due to suitable arrangement of quarters not having been made up to now, and if so, when will the construction of quarters be taken in hand?

(b) In view of the fact mentioned in paragraph 86 at page 28 of the Railway Retrenchment Sub-Committee's Report, are Government prepared to take in hand the construction of quarters for the staff of the Railway Clearing Accounts Office?

**Mr. P. R. Rau:** (a) and (b). Government are trying to select a suitable site for building quarters.

ESTABLISHMENT OF CLEARING HOUSES ON CERTAIN RAILWAYS

623. **\*Dr. N. B. Khare:** Is it a fact that clearing houses were proposed to be established on certain Railways in India? If so, what steps have been taken to establish them?

**Mr. P. R. Rau:** There was a proposal to start a branch of the Clearing Accounts Office for the Southern Railways in Madras, but in view of the inevitable additional expenditure in the early stages of running such a branch, and also in view of certain other experiments which, if successful, might have rendered such a branch unnecessary, the proposal was held in abeyance.

WORK OF APPORTIONMENT OF FOREIGN TRADE DONE IN RAILWAY CLEARING ACCOUNTS OFFICE.

624. **\*Dr. N. B. Khare:** Is it a fact that the Railway Clearing Accounts Office was instituted for making apportionment of foreign traffic between the State Railways? If so, why was the work of making apportionment of foreign traffic between the State Railways and Company-managed Railways taken over?

**Mr. P. R. Rau:** The object of the Railway Clearing Accounts Office is to facilitate the apportionment of foreign traffic between such railways as were prepared to be parties to it.

PROCEDURE OF WORKING ADOPTED IN APPORTIONMENT OF CLEARING HOUSES.

625. **\*Dr. N. B. Khare:** Will Government please state whether the same procedure of working is adopted in apportionment of clearing house and other than clearing house traffic, or is there any difference?

**Mr. P. R. Rau:** Traffic between Railways who are parties to the Clearing House is finally apportioned by the Clearing House on the Forwarded (or Outward) basis; while traffic between any of the above railways and other railways is apportioned in accordance with the rules of the Indian Railway Conference Association on a Received (or Inward) basis, with the exception of passenger traffic which is apportioned on an Outward basis.

TRANSFER OF CERTAIN STAFF OF THE RAILWAY CLEARING ACCOUNTS OFFICE TO THEIR RESPECTIVE RAILWAYS.

626. **\*Dr. N. B. Khare:** Will Government please state whether they are prepared to give chances to the staff of the Railway Clearing Accounts Office, suffering from unsuitable climate of Delhi, to be transferred to their respective Railway Accounts Offices, whenever vacancies occur in the respective Railway Chief Accounts Office? If not, why not?

**Mr. P. R. Rau:** The staff taken over, by the Railway Clearing Accounts Office from the different Railways, were taken over permanently; and the retransfer of this staff after so many years to the Railways from which they came would give rise to serious administrative difficulties. Individual cases of retransfer, however, have been and will be allowed so long as such retransfer is not administratively inconvenient.



**EXEMPTION FROM EXAMINATIONS FOR PROMOTION IN THE RAILWAY  
CLEARING ACCOUNTS OFFICE.**

**627. \*Dr. N. B. Khare:** Is it a fact that the staff of the Chief Accounts Offices of the Railways taken over by Government in 1925, has been exempted from all examinations for promotion to higher grade; and if so, why is this exemption not notified to Railway Clearing Accounts Office; and why are promotions to higher grades not given to such staff?

**Mr. P. R. Rau:** Staff taken over from the old companies have been exempted from the examinations which they were not required to pass under the rules to which they were subject before their transfer. The question of applying this rule to the Clearing Accounts Office will be considered.

**Dr. Ziauddin Ahmad:** Has the Honourable Member ever examined the question papers of this examination, and may I venture to ask whether he will be able to answer them?

**Mr. P. R. Rau:** I must plead guilty to the charge that I have not myself seen the examination papers.

**PROMOTION OF INDIAN GUARDS ON THE GREAT INDIAN PENINSULA  
RAILWAY.**

**628 \*Dr. N. B. Khare:** (a) How many Indian goods guards are promoted to passenger service on the Great Indian Peninsula Railway? If none, why not?

(b) How many Anglo-Indian and European goods guards are stationed and working on Branch lines? If none, why not?

(c) Are Indian goods guards working on passenger trains on Branch lines of the Great Indian Peninsula Railway permanent passenger guards or goods guards? Are they entitled to promotion to passenger service? If so, how many have been promoted up to now? If not, why not?

(d) Have the Indian guards of all denominations to pass the same examination as the Anglo-Indian and European guards? If so, why are the Indian guards not promoted to passenger service along with the Anglo-Indian and European guards in accordance with seniority?

(e) Are the Indian guards allowed to work off and on temporarily on passenger service? Have they given satisfaction in such service? If so, why are they not promoted to passenger trains?

**Mr. P. R. Rau:** Government have no information, but have asked the Agent, Great Indian Peninsula Railway, to examine the allegations of racial discrimination implied in these questions and to take, whatever, steps are necessary to give effect to the policy of Government in the matter.

**Mr. S. Satyamurti:** May I know why Government have not ascertained since this question was put on the order paper. Part (a) of the question is: "How many Indian goods guards are promoted to passenger service on the Great Indian Peninsula Railway?"

**Mr. P. R. Rau:** Sir, the Government thought that they would best give effect to the intention behind this question by asking the Agent to

examine all these allegations and to take whatever steps are necessary to give effect to the policy which is that there should not be any racial discrimination.

**Mr. S. Satyamurti:** May I know why, in spite of the cut motion on the railway budget regarding Indianisation on railways, which was given notice of, Government did not choose to get information on a point of first class importance like this?

**Mr. P. R. Rau:** So far as I remember, the debate on the subject was conducted apart from any relevant figures on the subject.

**Mr. S. Satyamurti:** If the Government were able to give any relevant figures at all with regard to this matter, why are they not able to give relevant figures even today?

**Mr. P. R. Rau:** With regard to guards we have not got relevant figures at present. With regard to superior services, the figures will be found in the Administration Report. But so far as I remember, when the cut motion was discussed, only the Mover of the motion, Mr. Aney, made any use of those figures.

**Mr. M. S. Aney:** May I ask the Honourable Member how was he able to anticipate the line which would be taken on the cut motion regarding Indianisation? The Honourable Member must have collected all the information before the cut motion was moved.

**Mr. P. R. Rau:** I have certain experience of this Assembly, Sir. In any case, I did not anticipate that this question about guards would be taken up.

**Mr. S. Satyamurti:** Then, why decline to answer this question as to how many Indian goods guards have been promoted to the passenger service? There must be some intention in not answering this question. The Government cannot say, they will not answer this question.

**Mr. P. R. Rau:** I am quite prepared to get the information and place it on the table of the House, if Honourable Members are really keen on getting that information.

**Mr. S. Satyamurti:** Why was the information not corrected and given this morning?

**Mr. P. R. Rau:** I have already explained the reasons

#### INCREASE IN THE RENTALS OF THE FOOD-STALLS AND REFRESHMENT ROOMS ON THE GREAT INDIAN PENINSULA RAILWAY.

629. **Dr. N. B. Khare:** (a) Are Government aware that the Great Indian Peninsula Railway authorities have very heavily increased the rentals of the food-stalls and refreshment rooms?

(b) Is it a fact that the Departmental Rules and Regulations clearly state that the rentals should be as low as possible to enable the supply

of best possible food and refreshment to the travelling public at the lowest possible rates?

(c) Are Government aware that the heavy increase in rentals will result in the supply of bad food which will be a great hardship to the poor third class passengers?

(d) Do Government propose to reduce these rentals and thus remove the hardship of the third class passengers?

**Mr. P. R. Rau:** (a) As I explained in my reply to Mr. Lalchand Navalrai's question No. 389 some days ago, the actual increase in rentals is not considerable although the percentage of the increase is high in some cases.

(b) and (d) No rules have been issued by the Railway Board in this matter. As I have already informed the House, it is proposed to consider the whole question as soon as replies from Railway Administrations to the Board's general enquiry have been received. I can only say at this stage that Government and the Railway Board have full sympathy with the view that the best possible food should be supplied to the travelling public at the lowest possible rates.

(c) So far as Government are aware, the increase in rentals has been graduated so as to impose a heavier charge at those stations at which the vendors are making larger profits. It is believed that the rentals which will be charged should not and will not affect the quality of the food supplied.

**Dr. Ziauddin Ahmad:** May I know whether it is not a fact that the rentals have been increased on Victoria Terminus Station Bombay?

**Mr. P. R. Rau:** So far as I am aware, the rentals have not been increased there recently.

**Dr. Ziauddin Ahmad:** May I know if the rentals are increased on the ground that the vendors are making enormous profit, does it not follow from this that the vendors should be compelled to sell things at a lower price than what they are doing at present and that they should sell at the market price as we have been pressing all along from this side of the House?

**Mr. P. R. Rau:** That is a question of opinion.

**Dr. Ziauddin Ahmad:** May I know whether Government would like to have a share in the loot that these vendors are getting from the passengers by sale of articles at exorbitant prices?

**Mr. P. R. Rau:** As my Honourable friend is aware, the whole question is under examination, and we are awaiting the replies from the Railway Administrations.

**Dr. Ziauddin Ahmad:** The Honourable Member maintained on the floor of the House that these rentals have been increased on the ground that the vendors are making larger profits. I suggest that the price of the articles should be diminished so that these vendors may not get money unnecessarily from the passengers?

**Mr. S. Satyamurti:** How long has this question been under consideration?

**Mr. President (The Honourable Sir Abdur Rahim):** The question has not yet been answered.

**Mr. P. R. Rau:** I thought that my Honourable friend was asking the question in connection with the subject. I did not know he was asking a question which required an answer.

**Dr. Ziauddin Ahmad:** My question is this. Whenever the Railway Department find that a particular vendor is making large profits, will Government consider the advisability of lowering the price of the articles and not tackle the question by putting an extra duty in the way of materials on the vendors?

**Mr. P. R. Rau:** That will be one of the points to be considered when we consider the general question.

**Dr. N. B. Khare:** Do Government want to share the large profits made by the contractors?

**Mr. P. R. Rau:** Government do not consider that earnings of this nature should form an appreciable item in railway revenues.

**Mr. S. Satyamurti:** How long has this question been under consideration?

**Mr. P. R. Rau:** We have just received reports from seven or eight Railway Administrations and not from the rest.

**Mr. S. Satyamurti:** Do Government prescribe any time limit within which the replies are to be received? Or, do they allow the Agents their own time to send replies?

**Mr. P. R. Rau:** We imposed a time limit within which they should forward their reports in this case. I believe it was the end of January.

#### CONSTRUCTION OF OFFICE BUILDING AND QUARTERS FOR STAFF OF THE RAILWAY CLEARING ACCOUNTS OFFICE

(a) **Khan Sahib Shaikh Fazl-i-Haq Piracha:** (a) Is it a fact that the amount of leave granted in connection with the illness of the staff in the Railway Clearing Accounts Office has been abnormally high as compared with other Government Offices in Delhi?

(b) Is it a fact that the District Medical Officer, North Western Railway, had recently occasion to invite the special attention of the Director, Railway Clearing Accounts Office, to the generally low state of health and the increased incidence of tubercular infection amongst the staff of the said office due to insanitary housing and the unhygienic and overcrowded condition of the staff office buildings?

(c) Is it a fact that the late Mr. L. S. Deane, Controller of Railway Accounts, while Director of Railway Clearing Accounts Office, made a

personal survey of the insanitary housing conditions of the staff of the Railway Clearing Accounts Office and strongly emphasised before the Railway Board the urgent need of constructing staff quarters?

(d) Are Government aware of the fact that bad housing and arduous work in congested buildings situated in insanitary localities constitute a great danger to the health of the staff and thereby lower their efficiency?

(e) Are Government aware that the staff of the Railway Clearing Accounts Office are generally poorly paid and have no means of providing themselves with suitable housing accommodation in Delhi, where rents are very high?

(f) Are Government aware of the fact that the majority of the staff transferred from Calcutta, Bombay and Lahore to the Railway Clearing Accounts Office at Delhi had their own residences in those cities and were given to understand at the time of their transfer that usual amenities of housing, etc., would be provided for them very early in their new station of duty?

(g) If the answers to the preceding parts be in the affirmative, will Government be pleased to state what tangible action, if any, has been taken so far as is proposed to be taken immediately, to build suitable staff quarters and office building for the Railway Clearing Accounts Office?

(h) Will Government be pleased to state (i) what has led to the moderate delay in taking the subject of the staff quarters and office building in Railway Clearing Accounts Office on board and (ii) the approximate date when the work is proposed to be started?

**Mr. P. R. Rau:** (a) Government regret that figures showing the number of men granted leave on account of illness is not readily available.

(b) The District Medical Officer, Western Railway, drew the attention of the Director, Railway Clearing Accounts Office, to the number of clerks in that office seeking his advice for tuberculosis of the lungs or pleura and to the overcrowding of the rooms in the office building. On this being brought to their notice, Government instructed the Director, Clearing Accounts Office, to discuss the matter with the District Medical Officer to see what steps could be taken to improve the conditions under which the staff were working. It is hoped that it will be possible before long to construct a new building for the office which will be free from the defects complained of.

(c) Yes.

(d) As a general statement of the results of bad housing and insanitary conditions, this seems unexceptionable.

(e) The scales of pay of the Railway Clearing Accounts Office are generally the same as those of other Railway Accounts Offices. Government are aware that suitable housing accommodation is not easy to obtain in Delhi and they are considering the possibility of building suitable quarters.

(f) As regards the first part of the question, the answer is in the negative. As regards the second part, it has been the intention of Government to provide suitable quarters, as soon as possible, but I am not aware of any definite promise made to the staff.

(g) Government are examining the possibility of a suitable site for quarters. A site has already been selected for a new office building and

(i) The Western Railway has been asked to prepare the plan and estimates. If funds for the purpose are sanctioned, it is expected that the work will be taken in hand during 1935-36.

(ii) (a). The delay has been caused by the difficulty of securing suitable sites for the large colony required and of providing funds for it.

(ii) As I have already stated, it is expected to start construction of the new building in the new financial year. As regards staff quarters, it depends on when we are able to secure a suitable site.

#### PARTICIPATION OF INDIAN SHIPS IN THE COASTAL TRADE TO GREAT BRITAIN.

631. **\*Mr. N. V. Gadgil:** Are Government aware that about 95 per cent. of the coastal trade to Great Britain is carried on by the British ships, and will Government be pleased to state whether they have considered the possibility of ships owned, controlled and managed by Indians participating effectively in that trade, just as British shipping is doing in Indian waters?

**The Honourable Sir Joseph Bhoré:** Government are aware that the coastal trade in Great Britain is carried on almost entirely by British ships. There is no legal bar to the participation in that trade of ships owned, controlled or managed by Indians.

#### FINANCIAL HELP TO THE INDIAN SHIPPING COMPANIES.

632. **Mr. N. V. Gadgil:** (a) Are Government aware that Indian Company, after Indian Company, which endeavoured to develop a coastal service has been financially shattered?

(b) If the answer to part (a) be in the affirmative, will Government be pleased to state whether they have considered the question of rendering such shipping companies financial help by way of subsidies, a form of help recognised by all the maritime countries of the world, and thus enabling them to face the competition of the British companies?

(c) If the answer to part (b) be in the affirmative, will Government be pleased to state whether the British shipping companies, against the competition of which subsidies may have been granted to protect the Indian shipping companies, would not be "equally eligible to participate in the grant with Indian companies" under the provision set forth in paragraph 256 of the Joint Parliamentary Committee Report?

(d) If the answer to part (c) be in the affirmative, will Government be pleased to state how in that event they would be able to protect such Indian shipping companies from the competition of the British shipping companies?

**The Honourable Sir Joseph Bhoré:** (a) Government are aware that Indian shipping companies have had to meet severe competition from companies already established in the coastal trade.

(b) Government do not consider that in present circumstances the grant of subsidies is the appropriate method of affording assistance to Indian shipping.

(c) and (d). Do not arise.

**Mr. B. Das:** If the grant of subsidies is not the right form of helping the Indian shipping industry, will the Honourable Member be pleased to state in what way Government will consider the question of helping this industry?

**The Honourable Sir Joseph Bore:** With pleasure, Sir. In my view, the best way of settling the question is through negotiation and friendly settlement.

**Mr. S. Satyamurti:** What are the circumstances which make it impossible or undesirable for Government to give them financial help by way of subsidies?

**The Honourable Sir Joseph Bore:** I do not think that that system is in present conditions appropriate.

**Mr. S. Satyamurti:** In view of the Honourable Member's statement that negotiation and settlement are the best means of dealing with this question, does he consider that, after the Government of India Bill becomes an Act, there is any scope for negotiation or settlement?

**The Honourable Sir Joseph Bore:** Certainly, Sir.

**Mr. S. Satyamurti:** Do Government realise that any subsidy which may be given will have to be given to non-Indian companies also?

**The Honourable Sir Joseph Bore:** But I am not dealing with subsidies.

**Mr. S. Satyamurti:** What is the other kind of help which the Honourable Member contemplates to encourage Indian coastal shipping?

**The Honourable Sir Joseph Bore:** The help which has already been rendered to Indian shipping companies and which has resulted in a very satisfactory settlement so far.

**Mr. S. Satyamurti:** The satisfactory settlement being that all the Indian companies have been left with two per cent in their hands?

**The Honourable Sir Joseph Bore:** That is entirely untrue.

**Mr. S. Satyamurti:** Then, what is the truth?

**The Honourable Sir Joseph Bore:** My Honourable friend has only to go and ask the shipping companies at the present moment, and he will realise what the state of affairs is.

**Mr. S. Satyamurti:** Does the Honourable Member realise that the Scindia Navigation Company is now at the mercy of the British India Steam Navigation Company?

**The Honourable Sir Joseph Bore:** No. My Honourable friend, if he refers to the smaller companies, should realise that that matter was, I hope, satisfactorily settled by me during the last two months.

**Mr. S. Satyamurti:** What was the satisfactory settlement in the last month?

**The Honourable Sir Joseph Blore:** My Honourable friend can refer to the public report of the shipping companies, and he will find that they are not so satisfactory as the Government.

**Mr. S. Satyamurti:** Are Government satisfied with the position that 80 per cent of the Indian coastal shipping is in the hands of foreigners, and only two per cent. in the hands of Indians?

**The Honourable Sir Joseph Blore:** I do not accept those figures for a moment.

**Mr. S. Satyamurti:** What are correct figures then?

**The Honourable Sir Joseph Blore:** If the Honourable Member puts the question I will give him the correct figures.

**Mr. S. Satyamurti:** Does not the Honourable Member know those figures now?

**The Honourable Sir Joseph Blore:** I do approximately, but I shall give the Honourable Member by quoting him the exact figures. I do not know the exact figures in my head.

#### IMPORT DUTY ON INDIAN RICE IN AUSTRALIA AND ON AUSTRALIAN WHEAT IN INDIA.

**Mr. C. N. Muthuranga Mudaliar:** (a) Will Government be pleased to state whether Australia has imposed an import duty on Indian rice, and if so, at what rate?

(b) Are there any other Indian commodities on which the Australian Government are imposing import duty?

(c) Will Government be pleased to state whether duty is levied on wheat imported from Australia in India?

(d) If the answer to part (c) be in the affirmative, will Government be pleased to state the rate at which duty is levied? If no duty is levied, what is the reason?

**The Honourable Sir Joseph Blore:** (a) Australia levies an import duty 1*d.* per lb. on rice not in the husk if uncleaned and 1½*d.* per lb. on other rice, plus a primage duty of 10 per cent *ad valorem* in both cases.

(b) Yes, Sir.

(c) and (d). A duty of Rs. 2 per cwt. is levied on wheat imported into India from all sources including Australia.

**Prof. N. G. Ranga:** What are our exports to Australia of paddy and rice?



**The Honourable Sir Joseph Bhoré:** The Honourable Member must give me more time to get the figures in my head.

**Mr C. N. Muthuranga Mudaliar:** What are the other Indian products subject to duty in Australia?

**The Honourable Sir Joseph Bhoré:** The Honourable friend puts down questions which will appear in the next session.

**Prof. N. G. Ranga:** Is it true that the Australian Government is not imposing import duties on goods from India?

**The Honourable Sir Joseph Bhoré:** No, Sir.

**Mr. C. N. Muthuranga Mudaliar:** With reference to (c) do Government propose to continue the duty on next for the coming year also?

**The Honourable Sir Joseph Bhoré:** My Honourable friend must wait.

**Prof. N. G. Ranga:** Will the Government of India be pleased to make a representation to the Government of Australia that this import duty should be abolished?

**The Honourable Sir Joseph Bhoré:** My Honourable friend does not realise that these import duties are of general application, and no one is singled out for special adverse treatment.

#### EXCISE DUTY ON MATCHES AND MATCH FACTORIES IN INDIA.

634. **\*Mr. C. N. Muthuranga Mudaliar:** Will Government be pleased to state

- (a) the number of match factories in existence before and after the match duty was levied
  - (i) in India, and
  - ii, in the Madras Presidency;
- (b) the extra expenditure involved, and income derived by enforcing the match duty;
- (c) the number of labourers and clerks thrown out of employment by the closing of such factories;
- (d) the amount of matches imported into India one year before and after the imposition of the duty?

**Mr. A. J. Raisman:** (a) The information has been called for and will be laid on the table of the House in due course.

(b) The expenditure is estimated at Rs. 9,11,720 in 1934-35. The revenue realised up to the end of January, 1935, amounted to Rs. 1,12,67,000. The estimated revenue in a normal full year is Rs. 250 lakhs.

(c) The attention of the Honorable Member is invited to my reply to Mr. S. Arumchilappan Chettiar's question No. 261, in the present session from which it may be inferred that there was no likelihood of clerks and clerk being thrown out of employment.

(d) Imports into British India by sea were 78,716 gross in 1930-31 and 10,575 gross in the nine months ending December, 1931.

**Prof. N. G. Ranga:** Is there no restriction placed by the Government of India with regard to the number of matches that are to be placed in every match-box?

**Mr. A. J. Raisman:** The excise duty varies according to the content of the match box, and in addition, there is a restriction on the maximum number of matches that can be contained in a box.

**Prof. N. G. Ranga:** Is the Honorable Member aware of the fact that in practice the retail price of match-boxes has been increased?

**Mr. A. J. Raisman:** Certainly, the Government of India could not possibly impose a tax on matches and expect the price to remain exactly what it was before.

**Prof. N. G. Ranga:** Is not the increase in the retail prices charged for matches in match-boxes which contain more than 15 is justifiable by the excise duty imposed on them?

**Mr. President:** The Honorable Sir Abdul Kalam: That is a matter for the Government to decide.

**Mr. B. Das:** I understand the Indian States have accepted the policy of the Government of India regarding bandrols and if no matches are struck for sale in Indian States to British India?

**Mr. A. J. Raisman:** The great majority of the Indian States have come into the scheme and have accepted the bandrol system.

**Mr. B. Das:** Is there no smuggling going on between the Indian States and British India?

**Mr. A. J. Raisman:** I should not be prepared to say that there was no smuggling going on anywhere on our frontiers.

**Mr. S. Satyamurthi:** Have Government taken any steps or do they propose to take any steps to see that retail dealers in matches do not profiteer in the name of the excise duty?

**Mr. A. J. Raisman:** As far as I remember, when Government first put the match excise before this House, their proposals were calculated with reference to the lowest unit of currency so as to retain for Government the whole of the increase in price resulting from the tax. I think that in Select Committee those proposals were somewhat modified with the result that a certain margin, it is true, now goes to the dealers; but it is, I think, a small margin.

**Prof. N. G. Ranga:** Will the Hon. able Member be pleased to state the number of matches in a match-box before and after the imposition of this excise duty?

**Mr. A. J. Raisman:** The position is that as a result of the imposition of the excise combined with the unit of currency, the most popular size of match-box now is the one that contains not more than 10 matches.

#### EXCISE DUTY ON SUGAR AND SUGAR FACTORIES IN INDIA.

635. **Mr. C. N. Muthuranga Mudaliar:** Will Government be pleased to state:

- (a) the number of sugar factories in existence before the levy of sugar excise duty;
- (b) the number of factories since closed down;
- (c) the number of labourers laid out of employment;
- (d) the effect of the imposition of duty on cultivation of sugar-cane;
- (e) the amount realised by the imposition of duty and the expenditure thereon;
- (f) the quantity of sugar imported from foreign countries before and after the imposition of the duty?

**Mr. A. J. Raisman:** (a) The number of modern factories for producing sugar from cane which existed during season 1933-34 was 136. 12 Noon. This includes factories under erection and 115 factories worked during the season. In the current season 142 factories are working.

(b) None, so far as Government are aware.

(c) Does not arise.

(d) The excise duty does not appear to have affected the cultivation of sugar-cane as the area in season 1934-35 is reported to have been 3,471,000 acres as compared with 3,305,000 acres in the previous season.

(e) A sum of Rs. 55,04,000 has been realised upto the end of January, 1935. The estimated revenue in the full year 1935-36 is Rs. 150 lakhs. The expenditure is estimated at Rs. 60.25 in 1934-35.

(f) Imports into British India by sea were 218,751 tons in the nine months ending December, 1933, and 181,438 tons in the corresponding period of 1934.

**Prof. N. G. Ranga:** How many of these are co-operative sugar factories registered under the Co-operative Societies Act?

**Mr. A. J. Raisman:** I must have notice of that question.

**Mr. B. Das:** With reference to part (f) of the question, is it a fact that sugar imported from Java was sold at a very low price lower than what was assumed by the Tariff Board?

**Mr. A. J. Raisman:** It is quite true that a large number of relevant factors have altered since the Tariff Board last reported.

**Prof. N. G. Ranga:** Is the Honourable Member aware of the fact that though co-operative sugar manufacturing concerns are being organised in Southern India, almost all of them are being dominated by zamindars and big capitalists?

**Mr. President** (The Honourable Sir Abdur Rahim): That question does not arise.

**Seth Haji Abdoola Haroon:** Is it a fact that, on account of the excise duty, the price of sugar-cane went down to about one anna and six pies per maund?

**Mr. A. J. Raisman:** I am not aware that the excise duty has affected the price of sugar-cane.

**Seth Haji Abdoola Haroon:** Are Government aware that it requires eleven maunds of sugar-cane to produce one maund of sugar and that, on account of the imposition of the excise duty, it is not possible for the purchasing factories to pay a higher price than one anna and six pies per maund for sugar-cane?

**Mr. A. J. Raisman:** I cannot, in answer to a supplementary question, enter into the complicated economics of sugar production.

**Seth Haji Abdoola Haroon:** Is it a fact that figures of sugar cultivation quoted by the Honourable Member include the sugar-cane already sown before the excise duty was imposed last year—that is to say, in January, 1934, and February, 1934, whereas the excise duty came in force in April, 1934?

**Mr. A. J. Raisman:** I am afraid I am not in a position to answer that question.

**Mr. B. Das:** May I ask if it is not a fact that the low prices of Javanese sugar did away with the degree of protection given to sugar industries by the Government?

**Mr. A. J. Raisman:** The position is that when the Tariff Board dealt with the question of protection to the sugar industry, they realised that the price of sugar might vary considerably. It is a fact that the price of sugar has fallen lower than the figure contemplated by the Tariff Board; but it is also a fact that the Government have, by pitching the excise at Rs. 1-5-0 as against a surcharge of Rs. 1-18-0, also given to the industry the maximum further protection which the Tariff Board recommended.

**Seth Haji Abdoola Haroon:** Is it a fact that, according to the Tariff Board report, they have fixed the c. i. f. price of sugar at Calcutta at Rs. 4, whereas, in last November, the prices went down to Rs. 2-6-0 a maund?

**Mr. B. Das:** That is what I meant.

**Mr. A. J. Raisman:** If my Honourable friend is referring to the basis on which the Tariff Board worked, my answer is that it is true that the figure has fallen over the last 4 which was the basis taken by the Tariff Board, but then it is also true that the Tariff Board said that if the price fell below further protection to the extent of eight annas a maund might be necessary and that further protection of eight annas has actually been given.

### UNSTARRED QUESTIONS AND ANSWERS

#### APPOINTMENTS MADE BY SENIOR SCALE OFFICERS ON STATE RAILWAYS.

10. **Bhai Parma Nand:** Will Government please state the appointments made by senior scale officers on State Railways?

**Mr. P. B. Rau:** The information required by the Honourable Member will be found in the Classified List of State Railway Establishment and Distribution Return or Establishment of all Railways, a copy of which is in the Library of the House.

#### NUMBER OF USED TICKETS COLLECTED AT THE QADIAN RAILWAY STATION.

11. **Khan Sahib Shaikh Fazl-i-Haq Piracha:** Will Government be pleased to state the total number of used railway tickets collected from the passengers at the Qadian Railway Station, North Western Railway, on 20th and 22nd October, 1934, and on 20th, 21st, 22nd and 23rd October 1935?

**Mr. P. B. Rau.**

|                    |           |     |
|--------------------|-----------|-----|
| October, 1934—20th | . . . . . | 433 |
| 23rd               | . . . . . | 263 |
| October, 1935—20th | . . . . . | 175 |
| 21st               | . . . . . | 143 |
| 22nd               | . . . . . | 157 |
| 23rd               | . . . . . | 125 |

#### REPORTS ON THE WORKING OF THE STAFF SELECTION BOARD ON THE EAST INDIAN RAILWAY.

12. **Mr. Muhammad Azhar Ali:** Will Government please lay on the table of this House a copy of the Reports on the working of the Staff Selection Board on the East Indian Railway for the period the 1st April, 1934, to the 31st January, 1935? If not, why not? What are the reasons for its non-publication?

**Mr. P. B. Rau:** So far as Government are aware there are no reports on the working of the Staff Selection Boards on the East Indian Railway. Government see no necessity to call for such reports.

SERVICE AGREEMENTS OF THE EAST INDIAN RAILWAY EMPLOYEES.

113. **Mr. Muhammad Azhar Ali:** With reference to the statement made in reply to starred question No. 13 asked on the 22nd August, 1933, relating to the supply of Rule Books to the East Indian Railway employees, will Government please lay on the table of this House a copy of the service agreements referred to therein?

**Mr. P. R. Rau:** Copies have been placed in the Library.

EMPLOYEES TRAINED IN YARD DUTIES AT THE MORADABAD RAILWAY STATION.

114. **Mr. Muhammad Azhar Ali:** Will Government please state

- (a) the names and class of employees trained in yard duties in the year 1934 at the Moradabad Junction Station on the East Indian Railway,
- (b) the total expenditure incurred in such training,
- (c) the names of the trained employees posted permanently after completion of training,
- (d) the circumstances under which leave was refused to all other employees, as no hand was available to relieve them,
- (e) the cost of exigency of training for which the leave was refused to employees not under training, and
- (f) whether there is any case of the hardship thus caused to the poor subordinates?

**Mr. P. R. Rau:** Government have no information, and do not consider any useful purpose will be served by collecting it. These are matters of detailed administration in which full powers have been delegated to Local Railway Administrations who are competent to deal with them.

MOVEMENT OF CERTAIN OFFICERS' CARRIAGES ON THE EAST INDIAN RAILWAY.

115. **Mr. Muhammad Azhar Ali:** Will Government please state.

- (a) the movements of officers' carriages Nos. 2999, 3313, 2945, 3192, 1938, 1963, 1831, 4955, 2600, 4112, 3360, 2273, 4835, 2987, 537, 1672, 1907, 2773, 4863, 4874, 2017, 3795, 2917, 3043, 2777, 3751, 4906, 4898, 4858, 1921, 4872, 2984 and 2787, and Motor Van No. E.O.K. 4840 and open trucks attached with the officers' carriages during the period from the 1st September, 1934, to the 31st January, 1935, on the East Indian Railway,
- (b) the nature of duties performed by the officers during the movements of the said carriages; and
- (c) the expenditure incurred in haulage of the said carriages?

**Mr. P. R. Rau:** Government are not prepared to collect the information desired by the Honourable Member, with regard to the movements of a large number of inspection carriages: but they are making enquiries from the Agent to ascertain whether there is any justification for the allegation contained in the question that the privilege of using inspection carriages is abused by certain officers.

#### INCREASE IN THE DECK FARES ON SHIPS TO THE COROMANDEL PORTS FROM BURMA.

**116. Mr. M. Ananthasayanam Ayyangar:** (a) Are Government aware of the recent increase in the deck fares on ships to the Coromandel ports from Burma, and that such increase causes great hardship to ordinary passengers?

(b) Are Government prepared to get the fares reduced to the old rates?

**The Honourable Sir Joseph Bhoré:** With your permission, Sir, I will answer questions Nos. 116 and 118 together.

Government have received representations to this effect but are unable to interfere in the matter as they have no power to control ocean steamship fares and freights.

#### EMPLOYMENT OF TELUGU INSPECTORS ON SHIPS PLYING BETWEEN THE COROMANDEL PORTS AND BURMA.

**117. Mr. M. Ananthasayanam Ayyangar:** (a) Are Government aware that a number of Andhra labourers are constantly travelling from Burma to the Coromandel ports, but that there are no Telugu inspectors on board the ships to look after their comforts?

(b) Are Government prepared to see that a Telugu inspector is appointed on board every passenger-vessel plying between the Coromandel ports and Burma?

**The Honourable Sir Joseph Bhoré:** With your permission, Sir, I will answer questions Nos. 117 and 119 together.

Government have received a representation from the Burma Andhra Maha Sabha, Rangoon, complaining of the inconveniences mentioned by the Honourable Member, but they have no power to interfere in the matter.

#### FREIGHT LEVIED ON CARGO AND BAGGAGE BETWEEN THE COROMANDEL PORTS AND BURMA.

**118. Mr. M. Ananthasayanam Ayyangar:** (a) Are Government aware that the freight levied on cargo and baggage to and from the Coromandel ports to Burma is higher than the freight on cargo and baggage to other Indian ports?

(b) Do Government propose to get the freight on cargo and baggage on ships to the Coromandel ports reduced to the level of freight to the other Indian ports?

*(For answer to this question, see answer to question No. 116.)*

**INCONVENIENCES ON SHIPS PLYING BETWEEN THE COROMANDEL PORTS AND BURMA.**

119. **Mr. M. Ananthasayanam Ayyangar:** Has any representation been made by the Burma-Andhra Mahasabha to Government complaining of the inconveniences of higher rates of freight and fares of deck passengers, and absence of Telugu inspectors on ships plying between the Coromandel ports and Burma? If so, have Government taken any action thereon; and if so, with what result?

**FORMATION OF A SEPARATE KARNATAKA PROVINCE AND REDISTRIBUTION OF THE PROVINCES OF INDIA ON LINGUISTIC BASIS.**

120. **Mr. M. Ananthasayanam Ayyangar:** (a) Are Government aware that there is a general opinion among the Karnatakas in the Bombay Presidency and the District of Bellary of the Madras Presidency that the southern portion of Bombay Presidency and a large portion of the Bellary District should be formed into a separate Karnataka province? If so, what steps do Government propose to take in the matter? If not, are Government prepared to investigate the possibilities of forming such a province?

(b) Have Government considered the possibilities of redistribution of the provinces in India on a linguistic basis? If so, with what result? If not, are Government prepared to make an early investigation by appointing a committee?

**The Honourable Sir Nripendra Sircar:** (a) The Honourable Member is referred to the reply given by the Honourable Sir Henry Craik to Rao Bahadur B. L. Patil's question No. 963 on August 31, 1934.

(b) Yes. The Government of India are of opinion that the principle of redistribution of provinces on a linguistic basis cannot be accepted as the sole test for territorial redistribution and that other factors must be taken into account. The latter part does not arise.

**SUPPLY OF STATISTICS, REPORTS AND JOURNALS TO THE MEMBERS OF THE INDIAN LEGISLATURE.**

121. **Mr. M. Ananthasayanam Ayyangar:** (a) Will Government be pleased to state how many copies of the weekly, monthly, quarterly, half-yearly, and annual trade, agricultural and other statistics are printed by the Government of India every year, and how many are distributed to the departments, how many are sold and how many are destroyed after some years?

(b) If there is a regular surplus, are Government prepared to distribute them among the Members of this House for their reference and use? If not, why not?

(c) If there are no copies available after sale, what will be the additional cost of printing 200 more copies for distribution among the Members of this House and of the Council of State?

(d) Are Government prepared to distribute free among the Members of the Assembly and the Council of State copies of the statistics, reports and journals from time to time?

†For answer to this question, see answer to question No. 117.



**The Honourable Sir Frank Noyce:** (a) The number of copies printed and sold vary with every publication and it is quite impossible to supply a list. Copies are only destroyed when there is a surplus that is not required.

(b) There is no regular surplus so that this part does not arise. But I might add that when a surplus occurs, we do offer copies free of charge to Members of the House if the publication is likely to be of value to them, and a list of publications which is surplus to requirements is placed from time to time in the Library.

(c) This would vary with every publication.

(d) The position is that our publications are made available to Members of the Central Legislature through the Library of the Indian Legislature which now receives six copies of each publication. If an Honourable Member of either House sends a request to the Department concerned for any publication in which he is particularly interested the request is considered and I believe that in most cases the publication is supplied. Publications of a special and general interest are frequently distributed to all Members, but Government cannot undertake to distribute all their publications to all Members of the Legislature.

#### CONSTITUTION OF THE HOUSE COMMITTEE.

**Mr. President** (The Honourable Sir Abdur Rahim): I have to announce that I have constituted a House Committee consisting of the following Members to look after the comforts and conveniences of Members, to suggest from time to time additions and alterations to the existing accommodation and to submit plans for building more residences to suit the convenience of Members whenever such a course becomes necessary:

- (1) Mr. Akhil Chandra Datta (Chairman).
- (2) Mr. M. Ghiasuddin,
- (3) Mr. B. Das,
- (4) Mr. J. Ramsay Scott,
- (5) Munshi Iswar Saran,
- (6) Dr. Ziauddin Ahmad,
- (7) Seth Haji Abdooli Haroon,
- (8) Raja Sir Vasudeva Rajah,
- (9) Mr. N. M. Joshi,
- (10) Dr. F. X. DeSouza, and
- (11) Mr. T. S. Avinashilingam Chettiar.

# THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

(AMENDMENT OF SECTION 406.)

**Sardar Sant Singh** (West Punjab: Sikh) Sir, I beg to move:

"That the Bill further to amend the Code of Criminal Procedure, 1898 (*Amendment of section 406*), be referred to a Select Committee consisting of the Honourable Sir Henry Craik, Sir Lancelot Graham, Mr. M. Asaf Ali, Mr. Sham Lal, Mr. M. Ananthasayanam Ayyangar, Mr. Satya Narayan Sinha, Syed Ghulam Bhik Nairang, U Thein Maung, Mr. Fakir Chand and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

This amendment relates to section 406 of the Criminal Procedure Code. The history of this section is that, before the Amending Act of 1923, was passed, the appeals from the orders of a first class Magistrate passed in proceedings taken under sections 107, 108, 109 and 110 of the Code of Criminal Procedure lay to the District Magistrate. But, later on, when the amendment of the Code of Criminal Procedure was taken up, section 406 was also amended by this House. The amendment made was that the appeal should, in future, lie to the Sessions Judges instead of to District Magistrates. When the amended Bill went to the Council of State, this particular section, along with others, were amended there and the proviso to the section was added giving the Local Government powers to issue a notification that the appeals in certain areas may lie to the District Magistrate. Thus, the section, as ultimately passed, read as follows:

"Any person who has been ordered under section 118 to give security for keeping the peace or for good behaviour may appeal against such order—

(a) if made by a Presidency Magistrate to the High Court,

(b) if made by any other magistrate to the Court of Session :

Provided that the Local Government may, by notification in the local official Gazette, direct that in any district specified in the notification appeals from such orders made by a Magistrate other than the District Magistrate or a Presidency Magistrate shall lie to the District Magistrate and not to the Court of Session :

Provided, further, that nothing in this section shall apply to persons, proceedings against whom are laid before the Sessions Judge in accordance with the provisions of sub-section (2) or sub-section 2.1 of section 123 "

My amendment aims at removing the first proviso. I may mention here, in this connection that a comprehensive Bill for amending certain provisions of the Code of Criminal Procedure including this section was introduced by me before the last Assembly in 1931. But as all the sections which I wanted to be amended were included in one Bill, certain objections were raised by the Government, one of which was that there was no uniform principle underlying that Bill. Another objection taken was that my amendment aimed at creating suspicion of judicial officers. On these grounds, my Bill was thrown out. I have now brought forward this Bill, after trying to meet some of the objections which were raised then. I have tabled six Bills containing six sections of the Criminal Procedure Code, and each Bill deals with one section. Therefore, it cannot be said now that there is want of a uniform principle in regard to this measure. Even in 1923, when the entire Code of Criminal Procedure was considered, clause by clause, by our predecessors, this House did not

[Sardar Sant Singh.]

provide originally this proviso which centers powers on the Local Governments to issue notifications changing the course of appeals to the District Magistrates. Now, so far as my information goes, and so far as I have been able to discover, Sir, the only province where the Local Government has used this power is my unfortunate Province of the Punjab . . . .

**The Honourable Sir Henry Craik** (Home Member): That is not correct.

**Sardar Sant Singh:** Then, may I know what is the position?

**The Honourable Sir Henry Craik:** Burma and N. W. F. Province, and also a part of Bihar and Orissa.

**Sardar Sant Singh:** They are sister provinces.

**The Honourable Sir Nripendra Sircar** (Law Member): They are cousins.

**Sardar Sant Singh:** Yes, they are cousins as the Honourable the Law Member suggests.

Again, Sir, this proviso aimed that the Local Governments would exercise discrimination in using this power, because, in the words of the proviso, the power is given to the Local Government to issue a notification "to direct that in any district specified in the Notification appeals from such order made by the Magistrates or Presidency Magistrates shall lie to the District Magistrate", that is to say, when the exercise of power becomes necessary, the Local Governments may use such power in respect of certain district or districts, where, on account of prevalence of unusual crime or overcrowding of Sessions Judges files, appeals may lie to the District Magistrate. But, instead of restricting themselves to the power given in the proviso, the Punjab Government have gone so far that by one stroke of the pen they have nullified the intentions of the Legislature for inserting this proviso and giving the right of appeal to the Sessions Court. Therefore, my objection is that this proviso has not been properly used and should be repealed.

The second point which I wish to bring to the notice of this House relates to the provisions of the Code which give rise to such appeals. As far as I have been able to make out,—and I state it subject to correction—that the preventive provisions, as are found in sections 107, 108, 109 and 110 of the Code of Criminal Procedure, are not to be found in the penal laws of any other country including England, United States of America, France or Germany.

As I am not attacking those provisions just now, and as I am not asking for the repeal of those provisions, I only refer to them as an additional argument that even if these provisions are considered to be necessary,—and, for the sake of argument we may assume that they are necessary,—they are not consistent with the general principles of penal laws, and, therefore, they should be exercised very carefully and cautiously. That is the reason why the power to take proceedings under these sections are vested in first class Magistrates, and not in Magistrates of a lower class when such powers are exercised by the first class Magistrates, the appeals should ordinarily lie to the Sessions Court. At the same time, I would draw the attention of the Honourable Member to this fact, that the District Magistrate is the chief executive of the district; the Superintendent

of Police is subordinate to him; the Magistrates are subordinate to the District Magistrate. It is but natural that proceedings relating to the maintenance of peace in a district may emanate, and sometimes occasionally do emanate, from the District Magistrates. He hears reports probably from the police; he decides that proceedings should be initiated, and the proceedings are taken up by the police and a regular chalan is put in Court and final orders are passed. Why then should the District Magistrates be empowered to hear appeals?

It is a well-known fact, and it is one of the principal grievances of Indians, that the executive and judicial functions have not been separated in India. The question has been before the Government for well nigh a century. While replying to a question in Parliament in April, 1927, and, again, in 1928, the Secretary of State for India admitted that this question had been receiving the attention of the Government of India for the last hundred years, though in this House. in reply to my question, the then Home Member, now His Excellency Sir Harry Haig, said that his information did not go beyond the year 1900, that is 34 years only. In Parliament it was admitted that this question had been under the consideration of the Government of India for nearly a hundred years. Even in the new Government of India Bill, which is now before Parliament, the Chapter referring to the control of the judiciary has this specific provision that first class Magistrates and other Magistrates shall be under the District Magistrates. Therefore, even in the so-called reforms, which are still in the clouds now, we are told that the question of the separation of judicial and executive functions is not going to be considered. This Bill aims, Sir, to separate, though very partially, the executive functions from the judicial functions. My grievance is, with due respect to the District Magistrates, some of whom are very eminent gentlemen, that justice is not done and cannot be done when appeals are heard by them. The men affected by these proceedings know fully well and the painful realisation has come to them that they cannot receive justice from District Magistrate, with the result that people have ceased appealing from the orders of Magistrates, but quietly submit to the restriction on their liberty of action. The main argument that was advanced in 1923 was put in very forcibly by Mr. T. Rangachariar when he spoke on a similar amendment moved by Sir Hari Singh Gour in that year. He said:

"To whom should the appeal go is the next point. Should it go to the executive head of the district or should it go to a judicial officer? The proposal is that it should go to the judicial head of the district. What is the harm in that amendment? An appeal lies; why should not the appeal go to a judicial officer? You have passed an order; the urgency is all gone; an order has been passed; there is no question of any stay or anything of that sort; peace is not threatened; the vagabond is already bound over; you only give him the chance of an appeal. Give him a fair hearing. What is the good of giving a right of appeal with the one hand and taking away with the other hand? What is this fear of Sessions Judges, I want to know?"

This could not be put in better language. My point is, if the right of appeal is to be given at all, let it be an effective right and not illusory and in a half-hearted fashion without any substance behind it. One argument that was advanced during the last discussion on this amendment was that it betrays a suspicion of the District Magistrates. I do not want to refer to this matter at great length but when I deal with my third Bill, where this will come out in greater prominence, I will quote certain authorities to the effect that an enactment of laws restricting the fancies and whims of particular judicial officers does not amount to a suspicion of the

[Sardar Sant Singh.]

judiciary. If an evil exists, Members both on the Treasury Benches as well as on the opposite side should see that the evil is killed. There is no reason why today Honourable Members occupying the Treasury Benches should care little for creating confidence in the administration of justice as their predecessors used to do in previous years. Today we find that whatever comes from this side of the House is looked upon with suspicion. Why? They come forward with the charge that the Opposition is not reasonable. I will test the reasonableness of the Treasury Benches by their attitude towards this Bill today, and I hope that they will set a very good example by themselves becoming more reasonable.

The last objection that is taken to this Bill is that the number of appeals to Sessions Judges will be so many that they will not be able to dispose of them, and then there will be expense involved in having more Judges. I submit that this is no valid objection at all. We are not here to care about expense on more Sessions Judges, because a particular evil has to be killed. Today the Punjab has produced a surplus budget and she can afford to appoint more Sessions Judges to dispose of the appeals, if necessary. With these words, I move my motion.

**Mr. President** (The Honourable Sir Abdur Rahim): Motion moved.

"That the Bill further to amend the Code of Criminal Procedure 1898, (*Amendment of section 496*), be referred to a Select Committee consisting of the Honourable Sir Henry Craik, Sir Lancelot Graham, Mr. M. Asaf Ali, Mr. Sham Lal, Mr. M. Amanthasayam Ayyangar, Mr. Satya Narayan Sinha, Syed Ghulam Bhik Nairang, U Thein Maung, Mr. Fakir Chand and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

**Khan Bahadur Mian Abdul Aziz** (Punjab: Nominated Official): The Honourable Member who has moved this Bill has referred particularly to the Punjab. He has also referred very briefly to the discussion that took place in this House, but he has not referred to the discussion that took place in the Council of State where this amendment was first originally brought forward. The debate in the other House on the subject is a memorable one. A large number of people put forward the case against this proviso very skilfully, and, at the concluding stage of the discussion, the then Home Member, Sir Malcolm Hailey, put the case thus:

"We leave it to the Executive Government, because the latter is after all in the best position to know exactly what it can afford. If the Local Legislatures desire to influence their Government in this direction they know how to do it, and have only to show their readiness to provide the resources necessary to increase the number of Sessions Judges. As I say, we have from the first taken our stand on financial grounds."

Then, this proviso was enacted in the other House. It came back to this House and the question was again taken up. There was a great deal of argument about this. Once again the same attitude was taken by Government, and I think the following remarks deserve the attention of this House:

"That is to say, that although we have at present an organisation which can and does hear the appeals and against whom I will not admit the charge that they do not

hear those appeals properly,—yet we should add to the expenditure of the Local Governments by forcing them to appoint fresh Sessions Judges. Various calculations have been formed as to the numbers which will be required. I do not wish to pin my faith to those, for they cannot, in the circumstances, be accurate. It has been suggested, for instance, that in the Punjab from 5 to 7 Sessions Judges will be required. . . . .”

Now, during the last twelve years nothing has happened to show that a change is needed—in any case in the Punjab Legislative Council there was no steady, or continuous, or even casual, reference to the provision of funds for this extra establishment. As a matter of fact, when Sir Malcolm Hailey was dealing with this case twelve years ago, he referred to the total number of 48,000 people as being required throughout the whole length and breadth of India to be placed on security. In the Punjab alone, if the House will bear with me, I will not give all the figures,—we have from year to year a very large number,—I am reading from the last report on the Criminal Work in the Punjab for the year 1932—Note prepared by the Honourable the High Court:

“There were 5,667 cases under section 107 of the Criminal Procedure Code involving 29,129 persons of whom 9,777 or 33·6 per cent., were ordered to execute bonds. Under sections 109 and 110 of the Criminal Procedure Code there were 7,909 cases involving 8,728 persons before the Courts as compared with 6,543 cases and 7,132 persons in the preceding year. Prosecution was successful in the case of 5,882 persons or 67·4 per cent, as compared with 65·6 per cent, in the previous year.”

Now, Sir, I have figures for other years, but, if the House will permit me just to give approximate figures, the House will be interested to know the volume of work that the average Sessions Judge, who is also the District Judge, has to do in the Punjab. There are altogether 21 Divisions in the Punjab for 29 districts. For instance, in my Division, there are six districts and only three Sessions Judges. The total volume of work for the whole province, criminal appeals, average—I am only mentioning round figures—are over 12,000, civil appeals including regular and miscellaneous are per year over 7,000, original criminal cases, which are mostly murder cases or dacoity cases with murder, average nearly a thousand, if not more, original civil cases over 2,000; all this 21 Sessions Judges have to do. Now, Sir, under the security sections alone, the number of individuals who are ordered to execute a bond for keeping the peace every year averages 9,000. It may be more. I have just given one year's figures and I can give figures for every year exactly. Those who are required to execute bonds to be of good behaviour average every year over 4,500. Sometimes it is more than 6,000 but that is the average. Now, if we give all this work to the Sessions Judges, I will not say that five more will be required, but merely as a matter of practical convenience at least two would be required. They would have to be peripatetic, in this sense that they could not sit down in one district, because there is not enough work. If you divide the province into two sections and entrust each section to one Sessions Judge, he will have just 14 districts. He will be in a district for just 26 days odd, then, at the end of it, he will have to go to another district, or if the existing Sessions Judge fixes the work for him, and he does the ordinary work, it will come to the same thing, namely, that the delay would be something enormous, and in this connection I hope the House will permit me to give a very small quotation from the Civil Justice Committee's report of 1924-25. This report was written after the Punjab Government had made use of this proviso, which was a very proper use.

[Khan Bahadur Mian Abdul Aziz]

and there is no ground for saying that it was not a proper use. This report says very distinctly—I am reading from page 98, paragraph 5

The greater portion of many of the district judges' time is occupied by sessions work, and during such time as the judge can devote to civil work his attention is distracted by a variety of miscellaneous judicial work in respect of which under the existing law he has exclusive jurisdiction. If we expect the district judge to do justice in any way to the work which, as indicated above, legitimately must be taken from his office, a portion of his sessions work must be taken away from him.

Now, Sir, this was a very authoritative pronouncement

**Mr. M. A. Jinnah** (Bombay City Muhammadan Urban): Will the Honourable Member allow me to interrupt him for a moment. I would like to know how many appeals per cent were preferred in these cases under consideration?

**An Honourable Member.** Security proceedings?

**Mr. M. A. Jinnah:** Yes.

**The Honourable Sir Henry Craik:** Figures are not available

**Khan Bahadur Mian Abdul Aziz:** Figures are not available, but I can tell the Honourable Member that District Magistrates hear 9,000 appeals every year in the Punjab.

**Mr. M. A. Jinnah:** My question is how many appeals are preferred under sections 107 and 108?

**The Honourable Sir Henry Craik:** I can answer my Honourable friend. I tried to get the figures, but this class of appeals is not shown separately in any return that I have been able to get.

**Khan Bahadur Mian Abdul Aziz:** When I was interrupted, I was reading from the Civil Justice Committee's report. It was a very timely interruption which wanted to take away the effect of that careful finding and that was to the effect that Sessions work must be taken away from the Sessions Judge.

**Mr. M. A. Jinnah:** May I explain to the Honourable Member? It was not my intention really to interrupt him with a view to making him lose his thread. The whole question of expense depends upon the number of appeals that are to be preferred and the whole question of the time that will be occupied will also depend upon the number of appeals that are preferred. That is the point.

**Mr. T. Sloan** (Government of India: Nominated Official): Perhaps I can . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member, Khan Bahadur Mian Abdul Aziz, is in possession of the House. He had better go on.

**Khan Bahadur Mian Abdul Aziz:** The Civil Justice Committee of 1924-25 wanted to take away a portion of the Sessions work of the District Judge.

**Mr. M. S. Aney** (Berar Representative): District Magistrate?

**Khan Bahadur Mian Abdul Aziz:** Of the Sessions Judge. If the Hon-ourable Member wants to look at this, I can give it to him.

**Mr. M. A. Jinnah:** You don't give us what we want.

**Khan Bahadur Mian Abdul Aziz:** The original criminal work done on an average by the Sessions Judge in the Punjab is over 1,000 cases per annum. If Honourable Members have paid any attention to the news this morning, the Finance Member speaking in the Punjab Legislative Council said yesterday in answer to a question that there were nearly 900 murders on an average in the Punjab. If we take murders with dacoity, the number is over a thousand. For several years it has been over 800. Primarily, it is thus a question of expense and finance. Sir Henry Moncrieff-Smith, when he introduced this proviso, said that Government were very anxious that there should not be any delays in the disposal of the civil work which at present the District and Sessions Judge has to do. Even where cases accumulate and Additional Sessions Judges are appointed and very great care is taken that there should be no accumulation, I have not the least doubt that even then there are delays. I cannot say what the number of appeals in security cases would be, but the number of appeals is likely to be very large, if this Bill has any meaning.

**An Honourable Member:** Why?

**Khan Bahadur Mian Abdul Aziz:** There will thus be a very sorry feature of stagnation if this proposal is adopted, and when the Honourable the Mover of the Bill said that he did not care what the expenditure was, he was certainly not speaking for people who have to pay for this extra expenditure.

**Mr. S. Satyamurti** (Madras City: Non-Muhammadian Urban): Are you?

**Khan Bahadur Mian Abdul Aziz:** There is only one other thing which the House might consider. The Honourable Member who moved this Bill—I was very glad to note this change—said that in some cases, not many, the proceedings were initiated at the instance of the District Magistrate. There is a printed statement of his—of course, I am very glad he has now modified it—in which it is said that the “District Magistrate himself, in most cases, initiates proceedings for keeping the peace”. There is, of course, no foundation for that except in very rare cases; and, even in cases of bad livelihood, the District Magistrate does not initiate proceedings except on very rare occasions and the procedure is laid down in the High Court Rules and in the orders of the High Court of Judicature at Lahore. The following quotation will, I hope, duly impress the House that the High Court themselves regulate this: I quote from page 6, paragraph 10 of Volume III, of the Lahore High Court of Judicature's Rules and Orders:

“Proceedings under section 110 of the Code of Criminal Procedure, shall not be taken against a *Zaildar*, *Ala Lambardar*, *Adna Lambardar*, or *Inamdar*, without the special order of the District Magistrate;”



[Khair Bahadur Khan Abdul Aziz.]

Now, that is the only class of cases, and the second sub-clause of this very instructive of the High Court says—

When such proceedings are instituted against a person or one of the classes named in the Bill dealt with, for offences triable by the District Magistrate himself.

So, that should knock the bottom out of all those suspicions which people have that District Magistrates do not deal with these cases justly. District Magistrates could not produce a better proof of confidence in them than this order of the High Court itself, and in this connection I will just refer to one other observation of the Civil Justice Committee. The Committee said—and of course they were referring only to the civil work in that case—

The supervision exercised by the High Court has been increasing in efficiency and has now attained a very high standard. For this reason we are disposed to be hopeful of the result in future. The Punjab is a province in which we can leave with confidence improvement in methods to the present officers."

So, in the Punjab—I do not know about other provinces—an Honorable Judge of the High Court comes every winter to every district as an inspecting Judge and he sees the work done by every Magistrate, even by the District Magistrate, and, ever since this attention has been paid to inspection work, the procedure and the general quality of the work has improved immensely. And I may also be allowed to say that I was very pleased to find that the Honorable the Mover of the Bill resisted the temptation of indulging in any condemnation of officers who are not here to defend themselves. Sir, a large number of those inspection notes, recorded by the inspecting Judge every year, show that there undoubtedly is very great improvement, and District Magistrates themselves, in the interests of their own self-respect, cannot uphold an order of a subordinate Magistrate if it is bad in law or if wrong procedure has been adopted. That is the reason why, in these cases under section 110 or section 109, the convictions are still only two-thirds of the total. It is said that the District Magistrate initiates proceedings. As a matter of fact, he is the head of the district and what he does is, whenever there is the slightest doubt, he says, "no, do not prosecute". Sir, it is a gratuitous assumption that when he is consulted, he always says, "do prosecute". In the majority of cases, he exercises his discretion and the only meaning present in the mind of District Magistrates of the phrase that he is the head of the district is that the police must work according to the law as he himself must work according to law. There is no other meaning. That is his duty and he cannot maintain his self-respect if he allows his subordinates to break that very law of which he is the guardian and custodian.

For these reasons, Sir, I think that there is no case for referring this recommendation to a Select Committee and saying, "omit this proviso". At any rate, the position taken up formerly has remained unaltered and that is this, are the Government of India justified in saddling Local Governments with expenditure the extent of which is not known to them? And whatever has been said with regard to the separation of judicial and executive functions, it was dealt with on the former occasion in this House when it was said: "Very well, leave it as that; till then, there is no justification for altering the method of disposal of work which is at present carried on in

very satisfactory manner". Not a word do I wish to say that there is no room for improvement. We should welcome it, if Sessions Judges were available and if they could relieve District Magistrates. I do not want to say a word against that, and it would undoubtedly be most desirable if we could afford it but the financial position is the main argument for our having made use of this proviso and very proper use of this proviso.

**Mr. Sham Lal** (Ambala Division: Non-Muhammadan). Sir, I am very glad that the position for the Government has been defended by the Commissioner of the Ambala Division, which constituency I have got the honour to represent (Hear, hear), and it would be better, I think, if I might explain what are the real facts which compel me to support the motion made by my Honourable friend, Sardar Sant Singh.

Now, Sir, the position is that this provision in section 406 was an exception; that is, in exceptional cases the Local Government might direct the District Magistrate to hear the appeal. This Criminal Procedure Code was passed in 1923; and if, as the Honourable Member has stated, it is the case that, on account of the rush of work and the special circumstances of the Punjab, it was necessary to make this direction or notification, then, may I ask, how many months after the passing of the Criminal Procedure Code was this notification issued? No Sessions Judge in the Punjab was allowed to hear any appeal. My point is that when this provision was inserted, it was intended by the Government that these exceptional powers would be the rule in the province, and as soon as the Criminal Procedure Code was passed, at once there was a notification in the Punjab that the appeals in security cases should be heard by the District Magistrate and not a single appeal was allowed to be heard by the Sessions Judge. Now a most relevant question was put by the Honourable Mr. Jinnah, namely, as to the number of appeals in security cases preferred every year. That would help us in judging as to whether the Sessions Judges would be overworked. We know the work done by the District Magistrates. The District Magistrates are the executive heads and they have got no time. If they can find time to dispose of these appeals, then how is it that the Sessions Judges cannot find time? Let us take the statistics. From every district, you will find, 10 or 15 appeals under this section are disposed of by the District Magistrate and this would not be heavy work for the Sessions Judges. We can go on with figures but the question is not this. The question is this. The policy of the law is that the appeals should be heard by the Sessions Judges. Only in exceptional cases, when you find that there is a rush of work and when you find that the Sessions Judges cannot cope with the work, you may issue a direction. But your *bono fides* and good faith can only be tested after working this provision for some time and then you can make out a case for the notification. May I ask the Official Member if any such case was made out in the Punjab in order to justify this notification under section 406? I think no such case was made out. Of course, the Honourable Member has quoted the figures. My submission is that these security sections are being abused and the work has increased, because you cannot expect any justice from the District Magistrates. They are the executive heads and they practically reject all the appeals. I can name a District Magistrate who used to boast and say: "I seldom accept an appeal". And I can quote one case in order to show how this section was abused. One Magistrate took Rs. 1,000 as a bribe for discharging an accused under section

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107, and after the case had been discharged he asked the complainant to file in the complaint and he demanded Rs. 1,000 more. There was a warrant issued and the Magistrate was dismissed. There was a judicial order to the effect to this case that he demanded Rs. 1,000 from that man for the warrant and section 107 and after he had been discharged he again demanded the same amount again. These sections are being abused by the police and by the magistrates and because no offence is committed in getting hold of any person and presenting him before the court this section is done to the effect that it is very easy to get the persons bound down and very easy to get the appeals rejected. But the question is whether the District Magistrates are deciding these cases correctly. Such is the present District Magistrates are connected with the executive work. Even then original cases coming under section 30 are decided. We find that the new District Magistrates are passing orders. They pass stereotyped orders "I have no doubt that the evidence justifies that it would be very proper to bind down this man. Therefore he should be bound down." You may get these stereotyped orders. Of course, my Honourable friend, Mr. Abdul Aziz, may not be of that type, but if you were to examine the District Magistrates and find that you will find that they never apply their mind. I have heard of many cases and I can say that I seldom expected justice at the hands of these District Magistrates in security cases. There may be good District Magistrates but they dispose of those cases summarily. There are no appeals have been instituted at the instance of the District Magistrates, but when they consult the Superintendent of Police, he says: "Well, Sir, there is a great lawlessness and people should be bound down." There is a general discussion with the Superintendent of Police as a result of which some cases must be instituted under section 107. Then, the District Magistrate considers it his duty to support the police and the police are not going to prosecute people indiscriminately. Sir, these cases are coming up in every district. Of course, my Honourable friend, Mr. Lal Chand, is sitting here as a Nominated Member, but I think all lawyers practising in the courts would defend this position that these cases should not be decided by executive officers. The chief difficulty that we find is this, that the judicial and the executive functions have not been separated. I do not see the difficulty that the work of the Sessions Judges might increase, but who is responsible for this position? If you leave the District Magistrate to do the judicial work, the work of the Sessions Judges must increase and we can only ask the Legislature to have the work heard by the Sessions Judges. Separate the executive from the judicial and you will not find the Sessions Judges overworked.

Another Bill which my Honourable friend, Sudar Sant Singh, is going to introduce is with regard to section 30 cases. We say, let there be Assistant Sessions Judges to try section 30 cases, let these appeals be heard by these Assistant Sessions Judges. Then, the Sessions Courts will not be overworked. But you create difficulties in your way by not separating the judicial from the executive. You say that the financial position does not allow this. I do not agree with you there. My submission is that the Bill is very important. We have got bitter experience of these reserved powers and subordinates. They have become the rule of the day. This special power was reserved for exceptional cases, but in our province it has become the rule. Therefore I support the motion.

**Mr. L. Owen** (United Provinces: Nominated Official) Sir, I rise to oppose this Bill. It is perhaps necessary to explain to this House that I myself belong to that unfortunate body of public servants known as the District Magistrates. I say unfortunate advisedly, for while to some we seem very large as the brutal instruments of an unprincipled autocracy, as the visible incarnation of unbridled power, to others we are so remote as to be microscopically small and insignificant. And because we are ultimately responsible for the maintenance of these terrible twins, Law and Order, it very often happens that the people murmur against us and the gods frown down upon us. That is why I have ventured to raise my voice in this august Assembly, because the laws which are made for the control of the criminal element in the population are the laws which we will have to administer. And do not forget that if the shadow of crime falls lightly on the man in the street, it is because of the work that is being done in the Courts of your Magistrates. It is fashionable nowadays to be sentimental about the criminal, to regard him as a fallen brother, who has for unaccountable reasons strayed from the straight and narrow path of rectitude. There, but for the grace of God, they think, go I. Well, generosity is a fine quality, an uplifting and a noble quality, but in this case it is misplaced.

**An Honourable Member:** Will the Honourable Member kindly speak up. We cannot hear him.

**Mr. L. Owen:** The sinister menace of crime is no less real, because it is so near and because a large percentage of the population has never seen its orbit.

**Mr. President** (The Honourable Sir Abdul Rahim) The Honourable Member must speak up. It is difficult for the other side of the House to hear him.

**Mr. L. Owen:** The intention of every Bill must be to benefit some portion of the community. Now, let us see what portion of the community this Bill proposes to benefit. Well, if anything is to be benefited, it is that it is not the honest, hard-working, God-fearing citizen who is to get a helping hand. Nor is it the amateur in crime, the man who has succumbed to sudden temptation or who has been driven by hunger or by force of circumstances to commit his first breach of the country laws. No, the type of man to whom this Bill will extend is to be found mentioned in the sections which are covered by section 106 of the Criminal Procedure Code. These are four in number. Section 107 deals with the bully, the ruffian and the disturber of the public peace. Section 108 deals with the sedition monger. Section 109 deals with the rogues, vagabonds and suspects generally, while section 110, which is a most comprehensive section, refers to habitual offenders, to those who are by habit and from choice robbers, receivers of stolen property, master thieves, habitual mischief makers, cheats and extortioners and to those also who are so desperate and dangerous that the very fact that they are at large is hazardous to the community. In short, the protégés contemplated in this Bill are the choicest scum of the criminal underworld. I hope they will be duly grateful to my Honourable friend who is the sponsor of the Bill for the interest that he takes in their welfare and for the solicitude he has shown for their well-being. That disposes of the section of the community which is to be benefited.

[Mr. L. Owen.]

Now let us consider the nature of the relief which it is proposed to give. The object of the Bill is to ensure that applications in revision from orders passed under the preventive sections shall be heard by the District Judge and not by the District Magistrate, and the reason given in the Statement of Objects and Reasons before me is that the District Magistrate himself in most cases initiates the proceedings for keeping the peace. The fact is, of course, that in most cases the District Magistrate is a member of the Council (Hear, hear). It is the Sub-Divisional Officer who initiates these proceedings, and, it is only in cases of emergency, or extreme urgency, that the District Magistrate intervenes either directly or indirectly. Now, let me take an instance of some such case. Supposing, for example, it is proposed to take out in two days time a procession along a disputed right of way and supposing if that procession is taken out, there is a likelihood of a serious breach of peace. If this is brought to the District Magistrate's notice, the position then becomes one of extreme difficulty. He cannot decide at a moment's notice which party is in the right and it is quite possible that he might then, on his own initiative, stop the proceedings against both the parties for keeping the peace. Assuming that this position has arisen, how are the parties going to be benefited if the application for revision is to be heard by the District Judge? The District Judge will then be in a position of equal delicacy, because if he issues an order for stay of proceedings, he might find himself responsible for a riot of the first magnitude, while, if, on the other hand, he decides to hear the case in the ordinary way the order will probably have lapsed before the day for hearing comes on. I would maintain, therefore, that in cases where the District Magistrate himself takes proceedings the circumstances are such that the parties themselves would not benefit if the applications for revision were heard by the District Judge, and if this view is correct, as I think it is, then the whole object of the Bill is defeated. I have referred at some length to section 107, Criminal Procedure Code, because this section has been specifically mentioned by the Honourable the Mover in the course of the Statement of Objects and Reasons. If I have only given one example, it is because most Honourable Members in this House, I imagine, will be able to multiply examples from their own particular experience in the districts.

Then, passing for a moment to the other preventive sections: section 108, Criminal Procedure Code, is now almost a dead letter and can be ignored. With regard to the other two sections, as I said before, I cannot imagine circumstances arising in which the head of an important district will himself take the initiative in applying the preventive section. He may, if there is a sudden unaccountable increase in crimes in one of his sub-divisions, make enquiries as to whether use is being made of the section, but that is a totally different thing. As far as the individual criminal is concerned, and remember we are dealing with criminals now, I think that the District Magistrate is as unbiassed as the District Judge. I do not mean to say that mistakes are not made in the course of appellate work by the District Magistrate. If you wanted to look, you would probably find a thousand such mistakes, and equally if you looked just as carefully, you would probably find a similar one that has been made by the Sessions Judge. If that were not so, there would be no need of any High Court, nor would there be any need of the Privy Council. The fact that one man is gazetted as the District Magistrate and another man is gazetted as the District Judge does not change his mentality.

**Some Honourable Members:** No, no.

**Mr. L. Owen:** I doubt it very much.

**Mr. Lalchand Navalrai** (Sind Non-Muhammadan Itard): Then, act as a Sessions Judge and you will know it.

**Sardar Sant Singh:** The change comes as soon as the forum is changed.

**Mr. L. Owen:** I have never acted as a Sessions Judge but I do know that in all appeals that come before me, I have tried to do justice. I do doubt very much whether, if these appeals are taken by the Sessions Judge, there would be very much difference ultimately in the result.

This brings me to my last point. The proviso which we are now considering is a purely permissive one. The power which is given to the District Magistrates is not vested in them by virtue of their office, but is conferred upon them by the Local Government, and I cannot for one moment imagine a Local Government even considering the conferring of these powers without, first of all, consulting its High Court. It must be quite clear to every one present that any step which excludes from the jurisdiction of the Judges a power which is vested in them can only be taken away with the fullest concurrence and consent. Nor do I think that the High Courts, which are the most careful guardians of the rights and liberties of the subject, would give that concurrence and consent unless they have fully considered what it meant and unless they have reflected on the work of the District Magistrate. It is for these reasons that I oppose the Bill which has been brought up by my Honourable and personal friend. (Applause.)

**Mr. S. Satyamurti:** I move that the question be now put.

**Mr. President** (The Honourable Sir Abdur Rahim): The Chair cannot accept closure now. Mr. Fakir Chand.

**Mr. Fakir Chand** (Jullundur Division, Non-Muhammadan): Sir, I rise to support the Bill moved by my Honourable friend, Sardar Sant Singh. This Bill has been opposed on two grounds. One by the learned Commissioner of the Ambala Division on the ground of financial stringency; another learned speaker, who has just preceded me, opposed the Bill on the ground of the Bill being not conducive to efficiency. He says that justice is better done at present by the District Magistrate than by the Sessions Judge. Now, I just want to inform the House as to the way in which this law is administered. We must start at the very bottom of the whole thing. Honourable Members, who have more experience than myself, will know how these security sections are used or abused by the police. The easiest way in which they proceed is like this. They will first enter the name of a man in their own register which is called the register of *budmashes*. They may enter anybody's name; there is no restriction and nobody supervises their work to see whether they are right or wrong. As a matter of fact, I can point to cases of defamation being brought against sub-inspectors or police who entered the name of a particular person as a *budmash*. So they enter the name of some person, and then, when a theft or some other crime occurs in the village, they will put up the man whose house is broken into just

[Mr. Fakir Chand:]

to point to that very man as a suspected person and then a house search is made. Ten or five times this man's house is searched. Then, he is counted up as a man of bad character and he is challanned. Then are *lambardars* and *adildars* who come up to depose that he is not a man of bad character. Ultimately, what happens is that these being the principal witnesses, the magistrate binds the case. As matters of fact there have been numerous cases of this kind that have come to the High Court. I will refer to only one or two to my Honourable friend the Commissioner of the Ambala Division. To my memory does not fail me, they are Criminal Cases reported in the Punjab Record as Nos. 1 and 2 of 1898. They show the way in which these District Magistrates are doing their duty. The case comes up before the magistrate first of all and he binds down the person. Then, at the time of appeal, in the majority of cases, these appeals are rejected, because they say no ground has been shown. In fact, the late Chief Justice of the Punjab High Court, Sir Shadi Lal had to say in one case that these are no judgments at all as to say that no ground has been shown. He therefore, wanted the District Magistrates to write proper judgments. So that, the cause of the whole thing is that the police starts in a very bad way in dealing with these cases. As a matter of fact, these security sections afford a powerful engine of oppression to the police. They can extort money from persons who they think are likely to give money, and as my friend Lala Sham Lal explained, the District Magistrate himself does not directly initiate these proceedings. What happens is like this. The sub-inspector goes to the Superintendent of Police and reports that such and such persons are *badmashes*. The same report is made to the District Magistrate, and naturally the District Magistrate says that the *badmashes* should be challanned. And then these persons

**Captain Rao Bahadur Chaudhri Lal Chand** (Nominated: Non-Official): How does the Honourable Member know that they are not really *badmashes*?

**Mr. Fakir Chand:** I know much more than my Honourable friend. I have been practising in the Bar for the last 38 years and I am an Advocate of 18 years' standing. I may inform my Honourable friend that, though I am not a Nominated Member, I know much more of these cases than he does. My point is that the sinister way, in which the police start, is first of all to enter a man's name in the register of *badmashes*, then to have his house searched ten or five times and then to put up a case before the magistrate and giving evidence of official witnesses. These *lambardars* and *adildars* are always after certificates and they are always at the beck and call of the police. Then, the man is bound down and the appeal is rejected on the ground of no ground being shown.

**Captain Rao Bahadur Chaudhri Lal Chand:** Will my Honourable friend point out one single case . . .

**Mr. Fakir Chand:** I have given two cases and if my Honourable friend will look them up . . .

**Mr. President** (The Honourable Sir Abdur Rahman): The Honourable Member had better not take any notice of such interruptions.

**Mr. Fakir Chand:** I could give one particular case, if my Honourable friend wanted it, of a man having large landed properties and being bound down. His appeal was rejected, and the matter had to be rectified by the High Court on the revisional side by saying that this man was not proved to be a bad character. What happened was, all the evidence that was adduced by the police was that his house was searched four or five times. The question came up, would that man be called a habitual thief in the words of section 110 if his house was merely searched on suspicion? The police puts up a man saying that this man is a suspected person and the man whose house is burgled would naturally say that this man's house should be searched. The mere fact that a man's house is searched does not lead to the conviction that a man is a habitual thief or offender. And, in fact, the High Court had to lay down, in the cases that I have referred to, that a man's reputation is best judged by respectable persons of his own locality rather than by official witnesses. These *saddars*, *iramdars* and *qambardars* have been termed as official witnesses and the High Court of the Punjab had to lay it down strongly that, as a matter of fact, these persons, who are official witnesses, shall not be relied upon as compared with the persons of the locality. If these latter come in overwhelming numbers and say that this man bears a good character the Courts should not rely on the official witnesses who may say that his reputation is bad, although they cannot rely on particular instances to prove that. That is the way in which the security sections are used. Of course, my immediate predecessor may say that District Magistrates are not bad people, but who says they are bad? It is only because he is a native to be influenced to a certain extent by the persons who surround him and who are always telling about peace and law and order. My Honourable friend says, they do a great deal because they preserve law and order. Nobody blames them for doing that but all that we want is a separation of executive and judicial functions.

I am an old member of the Congress which I joined in 1893. I was a member of the all-India Congress Committee for a great many years, but I know we have been striking our heads against a stone wall. We have been asking for the separation of judicial and executive functions, and the usual plea of the Government of the day was that there is financial stringency. The question was one of expenditure, that was the one reason given by the Commissioner of the Ambala Division. You do not think of this financial stringency when you want to build bungalows for European officials, but when the question of this important reform comes on, you enter the plea of financial stringency. I may inform my Honourable friend, the Commissioner of the Ambala Division, that in the Punjab we have District Judges and also Assistant Sessions Judges. The Assistant Sessions Judges exercise very nearly all the powers of District Judges and they can very well be given these cases. These cases of appeal under the security sections can easily be handed over to the Assistant Sessions Judges. All that we want is that these appeals should be heard by those Judges who are free from all taint of executive influence. Those people who know something of the executive administration of the district will only be anxious to see that there is peace and order; and the Superintendent of Police and the sub-inspectors of police will come up every day and say that peace will not be secured unless the persons of a particular territory are bound down as *budmashes*. So there will be no justice done. All that we want is that these appeals should be heard, not by the agency which is supposed to initiate these proceedings, not by the police agency



[Mr. Fakir Chand ]

or by the executive head of the district who is the head of the police as well, but by other Judges who have had nothing to do with the executive administration of the district. I submit, there is nothing sinister in that, and I support the motion.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock. Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

**Mr. Lalchand Navarai:** Sir, this Bill aims at the amendment of section 406 of the Criminal Procedure Code. That section has got a proviso which is causing mischief and that is why the Honourable the Mover of this Bill has asked for its elimination.

Now, section 406 says that all appeals from orders under section 118 of the Criminal Procedure Code would lie to the Sessions Court; but it makes one exception, that the Local Government may apply the proviso to certain parts of the country and make the appeals heard by a District Magistrate. Before this section was enacted in 1923, it is well-known that orders under section 118 were appealable to the District Magistrate alone. It was pointed out in 1923, that the change was absolutely necessary and no change was made; but a proviso was inserted to this effect, that the Local Government may have power to apply—it was understood only sometimes—to certain parts of the country where they thought it necessary. But you have heard today from my Honourable friends from the Punjab that this proviso was not considered to be applied in exceptional cases, but they at once applied it to the Punjab, and, at present, appeals there are being heard by a District Magistrate. Now, what is this section 118—appeals against orders passed under which have to be heard by the Sessions Judge? Section 118 appears in Chapter VIII of the Code—it is called commonly the *budmash* chapter—not because the persons that are sent under that Chapter are necessarily *budmashes*, but perhaps because the manner in which it is being worked is a *budmash* method, and, therefore, it is popularly known as the *budmash* chapter. I shall explain how that chapter has been causing mischief and how it is necessary that appeals must be heard by the Sessions Judges. Instances have been given in this House today—my Honourable friend, Mr. Fakir Chand, also gave certain instances—of how this chapter is being worked. We have, on the other side, heard now a District Magistrate and a Commissioner who have been dealing with this chapter. But I can also claim some experience on this point, and I should like to put it to them what I am describing as a fact—and ask them if they themselves have been employing the same method or not: and then the question will arise whether the District Magistrates and sub-divisional magistrates can do justice in these Chapter VIII cases or whether it is the Sessions Court that can do better justice.

At the outset, I must say that I consider my Honourable friend the District Magistrate from Nainital, Mr. Owen, to be quite innocent in this

matter: I do not say he is ignorant, but I say he is innocent because he asserted it boldly and said: "What would be the result if the appeals are heard by a Sessions Judge? The result would be the same." I submit, not. I wish the Honourable Member had been in the chair of a Sessions Judge, where he would have to divorce all those rumours and reports that come to them as District Magistrates and he will have to sit, if he is so minded, with a mentality absolutely different, to do justice and nothing but justice, and not as it is being done now. I know that the procedure now being used is this: My Honourable friend from the Punjab said that the police officers keep a diary and they have certain persons entered there as bad characters to be eventually sent up,—this used to be the method some time before, and then it was solely in the hands of the police to brand a man as a bad character. But, after that, the executive thought of some better procedure and it is this—though it is also not doing any good either. The police are told not to send up *budmashes* and the District Magistrates and sub-divisional magistrates give instructions that the crop of *budmash* cases should come before them during the time they stay in their district headquarters in the summer season. What they do during the winter time is this. The District Magistrate and the sub-divisional magistrate keep diaries. When they are at their table and hear reports from *zamindars* and some of their enemies and others who come and give long yarns and tall talks, often rumours and reports, to brand one man or other as a bad character they enter all in these diaries. They thus collect names, like this, and, during the winter time, when they are out on circuit, they go about inquiring. They meet people in the village—there are some enemies and some friends of the men whose names they have already recorded. They thus get some information—I do not say they are a party to the false information. They secure it honestly; but what is the consequence? If they come to know from one or two men that such is a bad character and they happen to find the name in their diary, then they are quite satisfied and the man is doomed. The sub-divisional magistrate next gives orders for the man to be sent up. That man is sent up by the police, to whom? To the same sub-divisional magistrate. The sub-divisional magistrate goes on with the case—generally these sub-divisional magistrates conduct these *budmash* cases—they come to a certain conclusion and the question of appeal arises. In the like manner, if certain information has been given to the District Magistrate, because these people who visit the sub-divisional magistrate also have access to the District Magistrate, then the case comes up before the sub-divisional magistrate and he convicts the man.

Now, my point is, should the appeal go to the District Magistrate? Should he have any voice in this matter at all? Is it fair when the situation becomes that of the prosecutor and the Judge in himself? More or less, he orders the prosecution and he comes to a conclusion and the so determined *budmash* must be sent to jail for 12 months.

All these circumstances were considered by the Legislature in 1928, when it asked for the transfer of appeal from the hands of the District Magistrate to the Sessions Judge. Now, Sir, it is well-known that the country has declared and recognised the fact that the executive cannot be a prosecutor and a Judge combined; there ought to be a separation of the judicial from the executive. But if the Government are not going to do that, then the little that we can do is also being upset. Has it not been upset, I ask? The Legislature decided that the original practice of sending

[Mr. Lalchand Navalrai.]

cases to District Magistrates should cease and the appeals should be heard by the Sessions Judges, but how have the executive whittled down that proposal? You know it yourself, because, in the same breath, the Government applied the proviso to the Punjab. Fortunately, I must say that this notification is not applied to Sind . . . . .

**An Honourable Member:** It is part of the Bombay Presidency

**Mr. Lalchand Navalrai:** I am thus disinterested in this matter, and I merely offer my own opinion. I say that on principle the notification should not apply to any part of the country, and everywhere the Sessions Judges should hear such appeals. Now, I think, it will be admitted that the law was changed to do justice, and it must be maintained. How was this proviso enacted? We have heard today that the Assembly had no share in introducing this proviso. The matter went to the Council of State, and there the elders, who I should say consider themselves wiser than ourselves, put in this proviso. The proceedings will show that the Government were very strong on the point, and the elders gave it away. Then, how was it that this House accepted it? I would say that here also the Government were very strong in those days; but, because a certain law was made at a certain time when the Government wished it and put forward a pretext that the expenditure would be great, is that a ground for not eliminating the proviso which is a right thing to do? I feel, Sir, that, in the interest of justice, this proviso should be eliminated.

Now, Sir, coming to the reasons set forth that the adoption of this suggestion would involve additional expenditure, and, as said by some speakers that Sessions Judges are overworked and cannot hear appeals it has not been stated how many appeals they have to hear and decide. I would ask the Treasury Benches and those District Magistrates who are sitting on that side,—I hope there are some Sessions Judges also there who might give their own experiences,—I ask all these gentlemen to say how their work can increase. At present there are first class Sub-Judges who are helping the District Judges. The Sessions Judge and the District Judge is one man. His civil side work has more or less been entrusted to a First Class Judge. Formerly, all cases of over Rs. 10,000 used to be decided by the District Judges, but now First Class Judges have unlimited power, and, therefore, all the original cases go to them. The Sessions Judges generally deal with land acquisition cases and also with Sessions cases. Then, I ask, what would be the additional expenditure? If for the dispensing of justice there is going to be some additional expenditure, I think it must be incurred. Reason, common sense and justice demand that such additional expenditure should not be grudged. But, apart from that, it was stated that only two Sessions Judges would be enough to dispose of this work in the Punjab. If that is so, then can't the Government afford to have even two Sessions Judges to sit and dispose of these appeals to mete out justice to the people instead of leaving the matter to the prosecutor? I, therefore, submit that that argument does not hold good.

Then, Sir, with regard to the assistance that the Sessions Judges get, at several places Sessions Judges have got Additional Sessions Judges and also Assistant Sessions Judges. The Sessions Judges also can, under the Criminal Procedure Code, distribute the work and give it to Additional

Sessions Judges or to Assistant Sessions Judges. I, therefore, say that the argument that Sessions Judges are overworked is not correct, and the demand that is made that this proviso should be eliminated is a perfectly just demand and it should be met by this House.

Then, Sir, a point was raised that there may be certain revisional points in breach of peace cases going to the Sessions Judges and they will not be in a position to decide them properly. I really cannot understand that argument, unless it is meant that the Sessions Judges also should decide revisional matters on reports and rumours, otherwise the case will be presented to them and they will decide whether interlocutory orders should be given or not. Then, again, it is well-known how public prosecutors represent the case of the Government, and the public prosecutors generally represent nobody's side except that of the police, and, therefore, the circumstances will all be laid bare before the Sessions Judge. Therefore, taking into consideration all these points and without taking any more time of the House, I submit that this is a very necessary demand, and I support the motion.

**Syed Ghulam Bhik Nairang** (East Punjab; Muhammadan): Sir, I rise to support the motion moved by my Honourable friend, Sardar Sant Singh, but, Sir, before I say anything in support of the motion, I must thank the Chair for giving me this opportunity, at long last, to say a few words in this House. I am not a man who believes in speaking in season and out of season, but I felt that a sort of suspicion was growing in the minds of some people against me that possibly when I took my oath of Membership in this House, which I did quite audibly, I had silently taken a vow of silence. (Laughter.) I know how detrimental to my reputation such an impression would be, and, therefore, Sir, I was anxious to seize the earliest opportunity of removing that suspicion.

As regards the motion which I want to support, I have heard two very informing speeches from the side of the Government, the speech of my Honourable friend, Mr. Abdul Aziz, the Commissioner of Ambala, and another speech, I believe, by the District Magistrate of Nainital. I feel bound to say that the views expressed by them deserve every deference and carry a lot of weight, especially the views expressed by my Honourable friend, Mr. Abdul Aziz, who supported them by quotations from the report of the Civil Justice Committee and by certain figures. But I happen to belong to the honourable profession of the law and happen to have practised in the Courts for about 35 years, and I have thus acquired some experience of the way in which the security sections of the Criminal Procedure Code are worked. My Honourable friend, Mr. Sham Lal, was audibly whispering that I had also been a Public Prosecutor. Well, of course, I was, but I did not intentionally mention it, because it might be taken as evidence of the reverse kind of experience. Anyhow, there are any number of instances that can be given in which District Magistrates do take the initiative in starting proceedings under the security sections. (Mr. M. S. Aney: "Hear, hear.") My Honourable friend, Mr. Fakir Chand, gave some instances. My Honourable friend, Mr. Sham Lal, who is another practising lawyer, gave certain instances. If all the instances were going to be cited in this House, every speech might become too long, but I will give only one instance of the way in which District Magistrates are mixed up, inextricably mixed up, with proceedings under the security sections, and show to the

[Sardar Chhanna Bhik Nirmal]

If a petition in connection with such proceedings leads to absolute injustice, I will not object to it. I will not mention the place or the persons, but it is related to a village in the tahsil of Ambala, and it is a very recent thing. The majority of the village proprietors in a certain village were not only in a numerical majority, but also owned by far the majority of the village, made an arrangement to settle a certain class of tenants in that village, the reason for that being that they were dissatisfied with the persons who were before that time their tenants and who were known to be bad. This class of tenants who appeared to them they would be dislodged by the incoming tenants, thought of a device for approaching the Deputy Commissioner of the district by submitting a petition with signatures, saying that so and so, owners of village so and so, had decided to import into the village a class of very bad and trouble people and that if this was allowed, there would be any amount of mischief done and even bloodshed might result. Making such wild allegations they submitted their petition to the Deputy Commissioner. I may explain that in the Punjab the head of the district is officially designated as Deputy Commissioner. On the revenue side, he is called the Collector, and as a Magistrate he is the District Magistrate. Of course, it is now admitted that he is also the head of the police in a certain sense; in whatever sense he may be, he is the head of the police in the district. That is the Deputy Commissioner. I wanted to explain this to those who do not belong to the Punjab, so that they might understand what I mean. In certain other provinces I believe his designation is the Collector of the district or something else. Well, this petition was submitted to the Deputy Commissioner, and somehow, the Deputy Commissioner, in spite of a report by a very experienced subordinate officer of his to the effect that nothing could legally be done on such a petition, passed an order that such and such people should not be allowed to settle in the village, and if they were allowed to settle there, so and so would be responsible. This order was disseminated on the proprietors of the village through the tahsildar and those proprietors took the order to their legal adviser and asked him what his legal opinion was. He naturally said that the Deputy Commissioner had no authority to pass any such order. The proprietors of a village may allow any tenants to cultivate their lands, may give them sites to build their houses, may allow them to settle in the village. The Deputy Commissioner cannot, by an executive order like this, prevent any incoming tenants from coming and settling in the village. The proprietors thought that they were safe and they decided to ignore the order. But the mighty Deputy Commissioner could not, of course, tolerate it. Very shortly after, we found the Deputy Superintendent of Police trying to persuade the proprietors to agree not to settle those people in the village. The proprietors did not accept that position, and, a few days later, they were hauled up before a magistrate under section 107. What was this proceeding under section 107 but a lever applied to enforce the illegal, whimsical and arbitrary order of the Deputy Commissioner? Rather than admit with his experienced subordinate officer that he had no legal right to pass any order in the matter, he took his stand on his sense of dignity and tried to get his order enforced through the agency of the police. I will leave it to the Honourable Members to imagine what would have happened if, in that case the magistrate had ordered security bonds to be executed by the persons concerned, and, if against that order an appeal had been preferred to the District Magistrate

who happened to be the same Deputy Commissioner? The result would be a foregone conclusion. So, I submit there are ways and ways in which these gentlemen, the District Magistrates,—who, of course, are a very estimable class of people, who in other ways are very good, but they are human beings after all,—act. They happen to possess various kinds of powers, exercising one kind of power in one sphere, they seek to support it by exercising another kind of power in another sphere.

Therefore, I submit to the House that the Bill which has been introduced by Sardar Sant Singh, seeking to repeal the proviso at present added to section 406, is a measure of very great importance and should not be brushed aside, simply because certain figures go to show that an enormous number of cases will be added to the files of the Sessions Judges. As has been remarked by some of my Honourable friends who preceded me, that matter too is not clarified by the figures which have been quoted by Mr. Abdul Aziz. As a matter of fact, a very pertinent question was asked by Mr. Jinnah whether he could give figures relating to the appeals which were put in under the security sections—what the number of appeals was, so that this House might be in a position to judge how many appeals are likely to be added to the files of the Sessions Judges. The figures on that point are lacking. So really the apprehension that the work of the Sessions Judges will be unduly increased has no foundation at present, and I think that according to the maxim—where there is a will there is a way—certainly ways and means can be found to see that while these cases go to the Sessions Judge, if any additions to the posts of Sessions Judges are necessary, which I hope will not be many, money can be found to meet the expenses of the arrangements that may be necessary. I may, in passing, submit that really the most important and strongest argument in favour of the Bill came from the Government Benchies. The learned District Magistrate of Nainital unconsciously supplied the strongest argument in favour of the Bill. I speak subject to correction, but I gathered from his speech that he saw that only vagabonds and robbers and men of that type were concerned in cases under these security sections and he wondered why so much solicitude should be shown for people of that class. Now if he as a District Magistrate, has got that impression, I think other District Magistrates may have got similar impressions, and, whenever an appeal in a security case comes before them, they may think “this is an appeal by a *hudmash*, therefore reject it” and there it goes. Unless I have misunderstood his speech I think that is the strongest argument in favour of the Bill which has been brought forward by Sardar Sant Singh, and I very heartily support

**Dr. Bhagwan Das** (Cities of the United Provinces Non-Municipal Urban). With your permission, Sir, I will bring before the House a point which it seems to me has not been sufficiently brought out in the discussion so far. The Bill is based on a vital principle of all good government. Even the Member for the Government who opposed the Bill admitted that the principle of it was all right. For so that he would welcome the Bill if financial difficulties were not involved therein.

The principle of the separation of judicial and executive functions has been, if I am not very much mistaken, repeatedly recognised by this Government. It has been conceded more than once in theory. But it has been withheld in practice all along on the usual flimsy excuse of practical

[Dr. Bhagwan Das.]

difficulties. I wish to submit to the House that no real financial difficulty is involved. The total amount of work will not be increased. Indeed I believe that it will be diminished, because when the police and the magistrates, who are concerned primarily with the working of these sections know that appeals will be considered carefully, they will take good care not to initiate false cases. (Applause.) But even if we do not allow that the total amount of work will be diminished, it is sure that in any case it will not be increased, and all that will be needed will be a redistribution of the total amount of work between the same total number of officials. The number of magistrates and the number of Sessions Judges taken together need not be increased at all. If the work of the Sessions Judges will be increased, correspondingly the work of the District Magistrates will be diminished. It will probably be objected that practical difficulties will be involved and the number of magistrates could not be reduced while that of the Sessions Judges would have to be increased. Even if this be so, the objection is not sufficient to avoid the needed change. We see, every year almost, that the areas of divisions are being realigned and the numbers of districts and tahsils being changed within the same province; and the numbers and areas of even the provinces are reconstituted from time to time. All these things are very much heavier and far more expensive pieces of work than the redistribution of executive and judicial work between the same number of officials in any given province. Really the alleged financial difficulties are non-existent. I need not go into the merits of the fundamental principle which is involved. That, as I have said, has been already conceded by the Government over and over again. The best thought on the subject of political science and of the integrity of governments now clearly and indubitably recognises that these two functions ought to be separated, and it is a crying shame that they have not yet been separated in this country. Therefore, I submit for the consideration of this House that even if financial difficulties were involved, they should be met and overcome. Large numbers of officials are being retrenched. Even police officers, so dear to the Government, are being retrenched. Not long ago, I heard from a sub-inspector of police that 30 places of sub-inspectors had been reduced in the United Provinces. When all these retrenchments can be made, if necessary, a couple of District Magistrates might well be retrenched to make room for the two additional Judges who, the Member for the Government said, would be needed in the Punjab. But District Magistrates are too firmly entrenched in the love of the Government to fear retrenchment. And I say, none need be really retrenched at all. A few would, at most, have to be converted into Judges. What is wanted is only a redistribution of work, and that is not so very difficult to carry out when all these far heavier matters of redistribution are being tackled every now and then. Even if a few lakhs of rupees of additional expenses were necessary, they would be well worth spending for the sake of the rehabilitation of this very vital and fundamental principle of good government in this country. I would say that even if one additional Sessions Judge had to be appointed throughout India to every one of the districts, it would be worth while to do so for the sake of the principle, even at the cost of 20 to 30 lakhs more per year, which is certainly a very exaggerated figure. We have spent 20 crores of rupees on building these largely useless palaces and are perpetually indulging in all kinds of extravagant waste, but are deriving a primary

elementary feature of honest government and simple justice to the people under cover of paltry subterfuges. It is a crying shame, I repeat. No pretence of financial difficulty ought to be allowed to stand in the way of this motion being adopted.

**Dr. F. X. DeSouza** (Nominated Non-Official): Mr. President, the principle underlying this Bill seems to be that as in all these cases the proceedings are being initiated by the police and the District Magistrate is the head of the police and responsible in the final resort for the peace and security of the district, it would not be fair to invest him with appellate powers, because it would place him in the invidious position of prosecutor and judge. My own experience extending over a quarter of a century as judicial officer has been that in no case, whenever officially or unofficially brought to my notice, did the District Magistrate fail to administer impartial justice. My Honourable friend questioned that, and he may be excused because, there is no doubt a suspicion lurks in the popular mind that the District Magistrate is bound to have a bias towards the prosecution in such a class of cases.

**Mr. Sri Prakasa** (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): We know it to our cost.

**Dr. F. X. DeSouza**: Have a little patience. Sir, there is one principle of British jurisprudence which is of the highest importance and that is that not only should the tribunal seized of a case be absolutely impartial, but it should be like Caesar's wife—above suspicion. (Hear, hear.) This principle, to my own knowledge, has been carried sometimes to quixotic lengths. In the early days, when I was a junior magistrate, I tried a theft case brought by Messrs. Treacher & Co., a firm of grocers, well-known in those days. That case went in revision to the Honourable the High Court and was posted before a Bench of two Judges, one of whom had two shares of Rs. 100 each in Treacher and Co. and he declined to hear it, because, he said, there might be a suspicion of partiality if the public knew that he tried a matter in which he was interested, however remotely. If that, Sir, is the position which British Judges have taken up in this country, why this hesitancy about transferring such appeals from the District Magistrate to the Sessions Judges?

**Sardar Sant Singh**: Times have changed entirely.

**Dr. F. X. DeSouza**: Sir, the reason why this suspicion lingers in the mind of the public is that Indian policemen of today have not yet outlived the traditions of the Mughal *nai*. They have not yet begun to think of themselves as the servants of the people. Very, very different, Sir, is the case of policemen in self-governing countries. Sir, one of my first experiences, when I went to London as a student, was a popular song which everyone sang in the streets, the refrain of which ran—"if you want to know the time, ask the policeman". It really showed, Sir, that the London policeman—Bobby as he is called—is the darling of the public. Now, can you say the same thing of the Indian policeman? (Voices: "No, no.") When, Sir, will that time come when the Indian policeman will be regarded in the same light by the Indian public as the London Bobby is regarded by the London public?



**Mr. M. S. Aney:** That depends upon the development of a proper sense of duty in the police.

**Mr. President** (The Honourable Sir Abdur Rahim): Order, order.

**Dr. F. X. DeSouza:** This state of public feeling towards the police force can only be created when the police force is not an agent of autocracy as it is today, but when the head of the police, responsible for law and order, will be a Minister responsible to a Legislature elected by the people. Nothing, to my mind, shows a more brilliant stroke of imagination on the part of the framers of the Report of the Statutory Commission and of the Joint Parliamentary Committee's Report than their decision to transfer law and order in the future Constitution to a Minister responsible to a popularly-elected Legislature. The fault today of the British system is simply this that the British officer today has more or less to live on the justice of the Government. Rightly so, Sir, the prestige of the Government has to be maintained. But the prestige of the Government may mean harassment to the people. Cases have come within my own experience, when police officers have been censured in the open Court by the Judges, but no action of any kind was taken against them by their superiors. (Hear, hear.) Their position was facetiously compared the other day by a correspondent of one of the Indian papers who said that they were very much like the occupants of the Treasury Benches today in face of the Opposition—an irremovable executive in face of a judiciary considered to be irresponsible. That being the position, so long as this is the public sentiment with regard to the police, I think that the reputation of British justice in this country demands, that appeals under section 406, Criminal Procedure, Code, should be heard by the Sessions Judge and not by the District Magistrate. What is the objection urged on behalf of the Government by my Honourable friend, Khan Bahadur Abdul Aziz? He agreed in principle that this is a very sound concession to the popular demand, but he urged certain financial and administrative difficulties. What were the financial considerations? He said it is just possible that more Judges may have to be added to the cadre of Judges in the Punjab. He gave no facts, he gave no figures, but let us assume that two more Sessions Judges have to be added to the Punjab. But, as my Honourable friend, Dr. Bhagavan Das, pointed out, is it not the case that to that extent the District Magistrates will be relieved? And would it not be a correct solution to reduce the number of District Magistrates if the number of Sessions Judges has to be added to? (Laughter.) Sir, to my mind, there is no justification for maintaining this attitude. The glory of British justice is: *Fiat justitia ruat cælum*:

“Let justice be done.

Though the Heavens fall.”

And, if there is no other difficulty except that two more additional Judges might have to be provided, I say that is a very insignificant ground for refusing to accept the motion. With these words, Sir, I support the motion. (Loud Applause.)

**Mr. M. Asaf Ali** (Delhi: General): I move that the question be now put.

**The Honourable Sir Henry Craik:** Sir, I am bound to confess that I have found this debate a little bit dull, perhaps because the subject is not a

very new or exciting one and partly because the speeches made have mostly followed very closely the arguments brought forward in their predecessors. I think it is desirable to remind the House that the operation of this Bill—the omission of the proviso to section 406—will actually only have effect in three provinces—the Punjab, Burma, the North-West Frontier Province and also in one part of Bihar. Elsewhere in India the proviso is not used at all, so far as I have been able to discover, and the Bill will have no effect whatever.

Now, we have heard a good deal from the point of view of the Punjab. I am sorry we have heard nothing from the point of view of Burma where the Bill will make a considerable change. But, as regards the Punjab, a part of India with which I happen to have considerable acquaintance, I would like to remind the House that the change which is proposed to be made by the Bill is one that is going to cause considerable dislocation of work and impose a considerable burden on the finances of the Province. A good deal has been made of the fact that we have been able to give no exact figures of the number of appeals presented under the security sections. It is perfectly true that in the very elaborate statistics compiled regarding the administration of criminal justice these kinds of appeals are not separately shown. But the figures for the number of persons bound over in the Punjab, which is of course one of the more criminal provinces in India, in the year 1933 for keeping the peace and for good behaviour was 16,205. Now, if you assume—and I think it is a moderate assumption—that one in five only of those persons appealed, that means that the number of appeals presented would be 3,241. It has been calculated that one Sessions Judge doing nothing else but hearing appeals against such orders could dispose of 1,000 appeals a year. Therefore, the effect of this enactment would be to make it necessary for the Punjab Government—who, mind you, have never been consulted—to propose and for the Punjab Legislative Council—who equally have never been consulted—to pass a financial provision for at least three new Sessions Judges. Now, Sir, I have been a Member of the Punjab Legislative Council continuously for over 12 years, and never once have I even heard the slightest suggestion, though we had every kind of suggestion for amending the Criminal Procedure Code, that this particular proviso should be eliminated.

**Mr. M. S. Aney:** How could any suggestion be made there?

**The Honourable Sir Henry Craik:** Of course, it could be made there—for instance in the general debate on the Budget. That is exactly the time when such suggestions could be made, or by means of a private Member's Bill.

**Mr. M. S. Aney.** It will be *ultra vires* of the Punjab Council to make any such suggestion.

**The Honourable Sir Henry Craik:** It is perfectly open to the Punjab Council to make such a suggestion. A private Member could introduce a Bill to this effect. Nor I have ever seen any suggestion in any Punjab newspaper that this proviso should be eliminated, and I am perfectly certain that I am right in saying that this is not a matter which has in any way seriously agitated public opinion in the province. No, Sir, there is no popular feeling behind this Bill so far as the Punjab is concerned

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and I do not believe for a moment that it is generally felt, as my Honourable friend the Mover of the Bill said, that justice is not done by District Magistrates and, therefore, the people do not appeal to them. I cannot accept that statement for a moment. At any rate the figures do not bear it out. I have examined the number of appeals—not in these security cases but appeals of all kinds—presented to District Magistrates' Courts in the last three years, and I find that they show a steady increase year by year, while the number of applications for revision presented to District Magistrates shows in the same way a steady increase.

Sir, my Honourable friend, Mr. Owen, was told that, because he has never been a Sessions Judge, he was incapable of taking an impartial view in such matters. Now, I have the advantage that for a considerable time I have been a Sessions Judge. I have also been a District Magistrate but I have been a Sessions Judge for a longer time than I have been a District Magistrate and I can assure the House that my attitude, in whichever capacity I was sitting as an appellate Court, was exactly the same. There was not a shade of difference. I would give the appellant just as much rope and just as fair and impartial a hearing as a District Magistrate as I did when I was a Sessions Judge.

**Mr. M. A. Jinnah:** There are exceptions to the rule.

**An Honourable Member:** You are an honourable exception.

**The Honourable Sir Henry Craik:** But I do not believe for a moment that I was an exception to the rule. It has been said that the Punjab can easily afford to pay for two or three more Sessions Judges. Well, if that is the honest opinion of the Mover of the Bill and of the House generally, why not consult public opinion in the Punjab? Why not move to have this Bill circulated? Why refer it straightaway to a Select Committee when you have not taken the trouble to ascertain public opinion on it in the province most closely concerned.

I should like the House to take it from me that if you are going to provide for three Assistant Sessions Judges to do nothing but try these appeals—and I am speaking with a very long experience of the province and with an intimate knowledge of the personnel of its judicial and executive services—you will not be able to find men with nearly so great legal experience or judicial training or experience of the country as you have at present as District Magistrates.

**Some Honourable Members:** Question.

**The Honourable Sir Henry Craik:** The District Magistrate at the present moment is more judicially-minded, far more experienced and knows more law than your Assistant Sessions Judge.

**Mr. Lalchand Navabhai:** He is also an executive officer.

**Mr. President (The Honourable Sir Abdur Rahim):** The Chair hopes Honourable Members will not go on interrupting the Honourable the Home Member.

**The Honourable Sir Henry Craik:** Thank you, Sir. Now, Sir, it is not enough for the Honourable the Mover of this Bill to say airily: "Oh, yes, the Punjab can easily afford to pay for two or three Additional Sessions Judges required". The Punjab cannot afford it and I am certain that any proposal of that sort would be turned down by the Legislative Council. As I have said, even if it were able to afford it, the necessary personnel is not available and I am convinced that the change would, in practice, be a change for the worse.

My friend, the Honourable Member from Rohtak, took the line that you may keep this proviso, but you are not justified in using it or in referring appeals to the District Magistrate until you have found by experience whether they cannot be disposed of by the Sessions Judge. He said that you ought not to make use of the proviso till experience shows that the system of appeal to the Sessions Court is not practicable. That, I understand, is my Honourable friend's point.

**Mr. Sham Lal:** Yes.

**The Honourable Sir Henry Craik:** But that is not what the Bill proposes to do. Let me remind my Honourable friend that the Bill proposes to eliminate the proviso altogether. So, however much experience may show that these appeals cannot be disposed of by Sessions Judges, nevertheless, if the Bill is carried, you will never be able to refer them to District Magistrates. That, Sir, is the point that my Honourable friend appears to have overlooked.

Sir, most of the speeches on this Bill have been speeches from members of the legal profession and I sometimes think, when I hear members of that great profession expounding their views on the question of the administration of criminal justice, their minds are unconsciously biased by the fact that they seem to be generally fancying themselves in the role of counsel for the defence. To that type of mind, every criminal is an innocent man, every policeman is a tyrannical scoundrel, every District Magistrate is . . .

**An Honourable Member:** A criminal.

**The Honourable Sir Henry Craik:** I will not say a criminal, but every District Magistrate has a distinct "executive bias" and is always the prosecutor and the judge as well, and no Judge can be impartial unless he is a Member of a High Court or sitting on a Sessions Bench. My experience is that things are not always as black in this particular respect as they are painted. As I have said, I have been myself a District Magistrate and I have been a Sessions Judge—I make no claim to be an exception, but I do claim that I was a good Sessions Judge, not for very long, but still I received the compliments of the High Court on my performances as a Judge. But the greater part of my life has been spent on the executive side and I would not admit for a moment that I had thereby acquired an "executive bias". I do not admit for a moment that because it happened to be my duty to sanction the institution of proceedings against certain men, a duty which is a mere formality and by no means a regular stage of the procedure, if that had been my duty, I do not admit for a moment that I would not hear the appeal of those

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men with as complete innocence as if I had never heard of the case before, as it was coming before me for the first time. I believe I am right in saying that the belief is shared by a great majority of the people in the Punjab, that justice in the District Magistrate's Court is administered with an even hand and with an impartial mind.

**Some Honourable Members:** No, no

**The Honourable Sir Henry Craik:** I repeat my belief that there is no demand in the Punjab for this change. I cannot speak for Burma. I only regret that none of the Honourable Members from Burma have enlightened the House today as to the state of feeling in that province, but in the Punjab, I am certain that there is no general demand for this change, and if it is imposed from above by the Central Legislature, without consultation, without any attempt to ascertain the views of the local Legislature, or the Local Government or the local public I am sure that that measure would be deeply resented. I ask the House to reject this motion. (Applause)

**Mr. S. Satyamurti:** Sir, I must congratulate the Honourable the Home Member on having found his voice this afternoon. After all, he can speak well, and he can speak so that every word may be heard and I do suggest that when he answers questions in the mornings, he may be as loud as he has been just now.

**The Honourable Sir Henry Craik:** If my answers are inaudible to the Honourable Member, his series of supplementary questions, generally far more numerous than the original questions themselves, are equally inaudible to me.

**Mr. S. Satyamurti:** I am sorry to hear that. I thought that my defect was that I was too loud, but I will take care to be louder hereafter in the mornings.

**The Honourable Sir Henry Craik:** Shri! but not loud

**Mr. S. Satyamurti:** Sir, I must express my surprise at the Honourable the Home Member's great solicitude for public opinion this afternoon. Have any Punjab interests asked for this? Has the Punjab Legislative Council asked for this? Has any Punjab Association asked for this? It seemed to me, Mr. President, as if the Government of India had suddenly become very responsive to public opinion. It is very curious that whenever all sections of opinion in this country want a thing, the Government turn a deaf ear to that, but whenever they find a suitable opportunity when they can say something about some province not having asked this or that, they suddenly put on an attitude of righteousness, and say that public opinion has not asked for it. Now, Sir, I see some Honourable elected Members of this House from the Punjab have already spoken and all of them have supported this Bill. I should like to know if there is a single elected Member from the Punjab in this House, who is against the Bill.

**Mr. M. Ghiasuddin (Punjab Landholders):** There is one. (Applause.)

**Mr. S. Satyamurti:** Sir, I accept that correction of one elected Member from the Punjab being against this Bill.

**Mr. H. M. Abdullah** (West Central Punjab: Muhammadan): There is another. (Applause.)

**Mr. S. Satyamurti:** All right, let there be two. I make this offer to Government that they must accept the opinion of the majority of the elected Members. (Hear, hear) Do they believe in democratic machinery and in the public opinion of majority or do they believe that a minority is going to be the public opinion in this country? I was suggesting that the Honourable the Home Member cannot put off this motion on the ground that public opinion is not in favour of it.

Then, Sir, he tried to prove too much really. If really the District Magistrates are more competent and more judicially minded, and the Punjab people have got more faith in them than even in the Sessions Judges. I suggest to the Honourable the Home Member to bring in a Bill to amend this section altogether. I want to bring to the notice of the House the scheme contained in this section:

"Any person who has been ordered under section 118 to give security for keeping the peace or for good behaviour may appeal against such order, if made by a Presidency Magistrate to the High Court, if made by any other Magistrate to the Court of Sessions."

That is the normal law for the Provinces and throughout India. There is only the proviso, Mr. President.

"Provided that the Local Government may, by notification in the local official gazette, direct that in any district specified in the notification appeals from such orders made by a Magistrate other than the District Magistrate or a Presidency Magistrate shall lie to the District Magistrate and not to the Court of Sessions."

Therefore, the authors of this Code contemplate, that in all Provinces including the Punjab, appeals shall normally lie to Sessions Judges. It is only this—power is given to the Local Government, in certain districts, and not in provinces, to provide for such appeals lying to District Magistrates. I suggest, Mr. President, that the burden of proof is on those who want to show that appeals should lie to District Magistrates, and not to Courts of Sessions. Is it contended that in the Punjab alone, the Sessions Judges are peculiarly incompetent to try and hear appeals from these orders? If Sessions Judges are good enough for every Province, excepting the Punjab and excepting Burma, is it suggested that there are certain considerations as to why the Sessions Judges ought not to hear these appeals?

One argument which has been put forward by the Honourable the Home Member and by the official speakers before me is the question of extra cost. The Honourable the Home Member made a calculation and said that we would require about three extra Sessions Judges to hear these appeals. Now, Sir, I wonder how these calculations were made. I take it that these appeals are now being heard by District Magistrates. Therefore, if these appeals are to be transferred from District Magistrates to Sessions Judges, there will be so much saving of work on the part of the District Magistrates. The work on the whole is not going to increase. That is not contended. On the other hand, as my Honourable friend,

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Dr. Bhagavan Das, said very rightly, it is quite possible, it is quite on the cards, that if appeals lie to Sessions Judges, the number of initial orders will decrease, because magistrates may be very much more careful in initiating these orders. Therefore, it seems to me that the argument for an increase of Sessions Judges is over-worked. It may be but one or more than one, say two. After all what will be the total cost of these Sessions Judges? I take it they are paid about Rs. 1,000 or Rs. 1,200 a month. It will mean about 30 or 40 thousand a year. Is it seriously contended that the Punjab, one of the richest provinces in India, which is growing richer, cannot afford this extra trifling sum of Rs. 30 or 40 thousand a year?

There is also one matter on which I should like to address the House, specially those Honourable friends who enthusiastically supported this differential treatment against the Punjab. At an earlier stage of the discussions in the Round Table Conferences, and the Committees which followed, it was seriously suggested that certain provinces should be treated differently from others, that while in certain provinces there might be full provincial autonomy, in other provinces there ought to be less of provincial autonomy; for example, law and order ought not to be transferred. At that time, there was a hue and cry throughout the country, that we should not have any difference between one province and another, and that all provinces ought to be treated together. Now I put it to my Honourable friends from the Punjab whether it is right that what is considered right and proper and good for all other provinces should be considered bad for the Punjab alone. What is there in the manhood or womanhood of the Punjab which makes it necessary that not Sessions Judges but District Magistrates should try these cases?

On the merits of the case, I think the best case for this Bill was made by my Honourable friend, Dr. DeSouza, from behind the Government Benches. He said that it is not only necessary that justice ought to be administered fairly and impartially but that those who seek justice must have the absolute consciousness that justice is being meted out fairly and impartially. Can it be said, Sir, that when appeals come to the District Magistrate from orders of subordinate magistrates asking for security, that sense of justice and consciousness of proper justice being meted out exist in the minds of all people?

Then, Sir, both the District Magistrate who spoke and the Honourable Member who referred facetiously to the legal profession, suggested that to the legal profession every criminal is innocent, and the District Magistrate also said that this chapter deals with vagabonds and *budmashes*. That is exactly the point of view which this Bill wants to destroy, and to substitute for it the proper British point of view, the proper judicial point of view, that is to say, that every man must be presumed to be innocent, until he is proved to be guilty. The District Magistrate hears appeals. If he represents the class to which my Honourable friend belongs, the moment the appeal comes before him, he starts with the presumption that he is a *budmash* and a vagabond.

**The Honourable Sir Henry Craik:** The lower Court has found him so.

**Mr. S. Satyamurti:** Exactly. My Honourable friend is still primitive in his judicial conceptions, in spite of his boast that he was a very good

Sessions Judge. It does not matter a bit whether a Court has found the man to be a vagabond. The Appellate Court must hear the entire case, presume he is innocent, and come to a conclusion on the evidence before it and after hearing the arguments.

**The Honourable Sir Henry Craik:** Does my Honourable friend seriously advance the legal proposition that an Appellate Court must presume a man to be innocent who has been found guilty by the lower Court?

**Mr. S. Satyamurti:** Undoubtedly.

**Mr. M. A. Jinnah:** Undoubtedly.

**Mr. S. Satyamurti:** It seems to me that that is why we get such Honourable Home Members who do not understand the a, b, c of criminal justice, who presume a man to be guilty when he has got a perfect right to re-open the whole matter in appeal, to make the Appellate Court go through the whole evidence, and go into the records and hear arguments and then say whether the man has been rightly convicted or not. On the other hand, the Honourable the Home Member gets up and asks me whether he is to presume a man to be innocent when he has been convicted. Therefore, you are unfit to hear these appeals; you have not got a judicial temperament and a judicial mind. And I put it to my Honourable friends from the Punjab who are enthusiastic on having such District Magistrates whether they still want them to try these security cases.

It seems to me these security cases are very important, more important even than ordinary trials. In ordinary trials after all, there is a far more formal procedure in the lower Court and far more care taken on all sides, whereas in these security proceedings, although the law provides for a proper trial, there is always a tendency to treat them as more or less summary cases. When these trials are held like that, and we get these District Magistrates, God help these unfortunate people! I, therefore, appeal to my Honourable friends from the Punjab, unless they have any conscientious objections, to vote for this Bill, as there can be no objection to Sessions Judges.

Then, Sir, my Honourable friend, the Home Member, referred to Burma. I sincerely hope the Honourable Members from Burma will see the need for this Bill. They are as self-respecting and as enthusiastic about their province having the same status as every other province in India. I am sure, therefore, they will support this Bill.

Then, Sir, the Honourable Member made a statement about the Punjab Legislative Council on which I must contradict him. The Punjab Legislative Council cannot alter this law. It is an all-India piece of legislation, and, therefore, it is only in this House that we can take it up.

**Several Honourable Members:** The Punjab Council can alter the law.

**Mr. S. Satyamurti:** Yes, with the leave of the Governor General. But it seems to me that the proper place to agitate this is this place, and, as a matter of fact, it was passed by this Assembly. It is, therefore, this place which has got the right and the duty to give this relief to the Punjab people.



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Now, Sir, apart from the arguments, apart from the figures, let us look at this as a mere human question. Do or do not District Magistrates function as representatives of Government in respect of the districts? I want a straight answer to a straight question. And, are they not really actual heads of the police although there is a District Superintendent of Police? Are there not confidential documents passing between the police and the magistrate day in and day out? Do they not really stand there in order to strengthen the police and represent them in their dealings with the citizens? Therefore it seems to me, it is asking too much of human nature to expect that District Magistrates will have the same strict impartiality, the same strict judicial temperament, the same freedom from prejudice that we expect the Sessions Judges normally to have. That is the one solid ground on which this Bill is based.

And I will conclude as I began. The scope of this Bill is not to confer something special on the Punjab or on Burma or on the North-West Frontier Province. On the other hand, the scope of the Bill is to place the Punjab, the North-West Frontier Province, and Burma exactly in the same position as every other province in British India today; and the representatives of the Punjab and of the Government will have to make out a very much stronger case, than they have so far made, in order to justify this perpetual insult to these provinces, under which District Magistrates are given the power to decide in appeal, orders under these security sections. Even in the Punjab, Sir, when District Magistrates make these orders, appeals lie to Sessions Judges, and it seems to me that the motion of the Honourable the Mover today to refer this Bill to Select Committee is an eminently reasonable one and deserves the support of all sections of this House including, may I add, all the elected Members from the Punjab.

**U Ba Si (Burma: Non-European):** Sir, as reference has been made to Burma, I feel I ought to say something on this subject. I am sure, Burma will welcome this amendment of the law. The sub-divisional magistrate and the District Magistrate are two executive officers just like the hand and the glove in the interest of peace and order in the district; how can, therefore, one hope to get an order passed by a sub-divisional magistrate under the sections in discussion set aside by his immediate superior executive officer, the District Magistrate? In my experience of 20 years I do not remember a case of this nature where I could have got a conviction by a sub-divisional magistrate set aside before the District Magistrate. Therefore, I submit that in a case of this kind the appeal should lie to the Sessions Judge or to the Assistant Sessions Judge and not to the District Magistrate. Just one word more: it is not necessary to have more Sessions Judges or Assistant Sessions Judges for this purpose: the present number is quite sufficient for this purpose.

With these few words, I support the Bill.

**Mr. M. A. Jinnah:** Sir, but for the few observations that fell from the Honourable the Home Member, I really would not have intervened in this debate. I have not the slightest doubt as to the nobility of mind of the Honourable the Home Member: From what little opportunities I have had for a short time, I am more than convinced of his sincerity and of his belief in what he says: but if the Government really and seriously wanted this House to consider the question whether this Bill should be circulated for further opinions, may I not tell the Government that they

ought to have been in possession of those facts and they ought to have placed those facts before the House?

**The Honourable Sir Henry Craik:** What facts?

**Mr. M. A. Jinnah:** I will tell you in a minute. We have been discussing certain general principles, and I do not think it is really open to the Government to challenge those principles that, in the ordinary normal course, there should not be a departure from the provisions of section 406 which lays down that normally an appeal should be heard by a Sessions Judge: then, this proviso was inserted there: it was inserted, because, in certain eventualities, it may become necessary for the Provincial Government, for very cogent reasons, by notification in the Gazette to direct that the appeal should be filed or heard before a District Magistrate. The first statement that the Honourable Member from Rohtak made, made it perfectly clear that so far as the Punjab Government is concerned, they never gave a chance to the people of the Punjab, but straightaway, as soon as the Act came into being, by notification directed that the appeal should lie to the District Magistrate and not to the Sessions Judge. What was the reason for that? Was it going to dislocate the administration? Did they find at once that they will have to engage four or five Sessions Judges? No answer has been given to that. No explanation has been given on that point. Why did they do it? You have done it. Now, you come before this House and you tell this House that is the reason. I had no evil designs on the impressive speech that the Honourable Member, Mian Abdul Aziz, was making—I certainly never intended that I should embarrass him in any way when I put that question; but I was so attracted by his wonderful figures and there were so many figures that I really thought that the time had come when I should ask him to give me some really pertinent figures; and so I could not restrain myself and I asked him the question: and what was the answer? No answer. The Honourable the Home Member came to his rescue. I was waiting for the Honourable the Home Member to tell me what are the figures. Before you can command our respect and our confidence in what you are saying, however sincere you may be, you must place the materials before us to persuade us to take the line that you think is the right line to take. We have had absolutely no materials. The Honourable the Home Member prepared what we call a provisional menu for us, and that was this: he said there are so many cases, so many convictions, and, therefore, there would be so many appeals. I for one am not prepared to accept that provisional menu and digest it. Government ought to have been ready to give us actual figures: Government ought to have been ready to give us figures as to the financial liability which the province will have to bear, and, then, if the Government had said: "The situation is serious and we want now that the Bill should be circulated for the opinion of the Punjab, because, after all, it is the Punjab that will have to bear the burden", I certainly would have supported the Government in their desire for circulation.

As regards the other matters, really we have wasted our time altogether. But for these two reasons, that is, that there would be serious dislocation of administrative machinery and that the financial burden would be so heavy that the Punjab cannot afford it, the Government have no answer to this Bill. I am not satisfied on these two questions, and I cannot, therefore, support the Government. I must support the Bill.

**Mr. K. L. Gauba** (East Central Punjab: Muhaimmadan): Mr. President, it is with considerable reluctance that I have decided to intervene in this debate: and, particularly after my leader has supported the Bill, I regret that I should have to stand on the other side of the House.

In regard to this Bill, I think there has been a little misunderstanding. Most of the Members have tried to judge conditions in the Punjab by conditions prevailing in other parts of the country. Mr. Satyamurti asked whether the people of the Punjab lacked self-respect or were different in manhood or womanhood not to support this measure. As a Punjabi, I do not yield in self-respect to any other Member of this House; in manhood or womanhood, I do not think the Punjab will yield to anybody anywhere else in the world: but, after all these are not the questions which are before us. Here we have to see whether a case has been made out for a modification of the law as it stands. The law, as it stands, permits notifications in cases where the particular circumstances of a province call for notification. Mr. Jinnah asked whether in Punjab there was a case made out for a notification to have issued, or, whether the Punjab Government issued a notification merely for the sake of getting a particular type of cases disposed of by a particular class of officers.

Well, Sir, I hold no brief for the Punjab Government, but, as a practising lawyer of Lahore, all I can say is this, that, in the year 1922, 1923 or 1924 when this notification was issued the congestion of work in the High Court and in the District Judges' Courts was so colossal that Government were compelled to issue this notification. Civil cases in the High Court were four years in arrears; civil cases in District Judges' Courts were two years in arrears. At the present moment the new administration in the High Court has cleared off some of those arrears in the High Court, but everybody who practises before a District or Sessions Judge's Court knows, that even today you cannot get civil appeals heard under six months to a year. The congestion is great, and if these five or six thousand new cases annually are brought in, well, the congestion will be infinitely greater. There is also another circumstance, and it is this: I will merely mention an incident that occurred in the High Court Bar Room only a few days ago. The Chief Justice visited the members of the High Court Bar and discussed with them various matters. One of those matters related to the delay of cases in the lower Courts, and another matter was the new practice,—I do not know how it has arisen,—of appointing comparatively junior members of the Civil Service as District and Sessions Judges. These people after four or five years have the power of sentencing persons to the maximum penalty provided by the law. Now, the High Court has definitely found that the work turned out by these District and Sessions Judges is not up to the required standard. How can you, therefore, burden these Courts with further work when they are already overburdened with work which is not discharged entirely satisfactorily? I agree with the Honourable the Home Member that in many cases there are persons of much longer judicial experience carrying on and working as District Magistrates. I do not know what the position in the rest of India is, but so far as the Punjab is concerned the position does not call for any change at the moment.

**An Honourable Member: Question.**

**Mr. K. L. Gauba:** My suggestion, Sir, is this. When the arrears are cleared off,—and efforts are being made to clear off the arrears,—the position in the Punjab can be modified at once by a notification. I think the Honourable the Home Member should give an assurance to this effect. I fully agree that appeals shall, as far as possible, be heard by the most superior tribunal that can hear such appeals. I am entirely at one with the other Honourable Members who have spoken in support of this proposition, but as soon as the administrative and financial difficulties are over, and these arrears are cleared off, these notifications, so far as the Punjab is concerned, should be withdrawn. I think that will serve the purpose of Honourable Members. What we have to see today is this,—whether this provision is to remain as a part of the section, or, whether a case has been made out for the deletion of the provision from the section as it stands. I submit, Sir, from the case so far made out, no case has been established for the deletion of the proviso, even in the case of the Punjab; and, if a case has been established at all, it is for the modification of the notification, and not for the modification of the section as it stands. I, therefore, oppose the Bill.

**An Honourable Member:** Sir, I move that the question be now put.

**Mr. M. S. Ansy:** I have risen, Sir, only to give a reply to one point which has been repeatedly emphasised in this debate by my friends on the Treasury Benches and by those who sit behind them. Their main objection to the acceptance of this Bill was on the ground of the financial inability of the Punjab Government to maintain the necessary staff of Judges for carrying on the judicial work that will have to be performed in case the Bill is accepted. I want to bring to their notice the fact that section 406 of the Criminal Procedure Code was enacted in the year 1923 for the whole of British India, including the Punjab, and the proviso was added to it with a purpose which may be anything, but entirely not one contemplating the financial difficulties of any province. One has only to read the proviso carefully to understand what I say:

"Provided that the Local Government may, by notification in the local official Gazette, direct that in any district specified in the notification appeals from such orders made by a magistrate other than the District Magistrate or a Presidency Magistrate shall lie to the District Magistrate and not to the Court of Session."

The Local Government is given the power to restrict the appeals to the District Magistrate in a particular district, and not at all in the province as a whole. So it evidently contemplates the existence of certain circumstances other than the financial position of the province in this matter. By enacting section 406 in the form in which it stands today, this Legislature has created a responsibility which the Provincial Government has to discharge, and, therefore, an argument based upon financial position is, in my opinion, entirely beside the object with which section 406 was enacted. That argument seems to be somehow an excuse which is put forward, and, on the strength of it, the Government succeeded in misleading the Members of the other House on the last occasion.

Now, the other argument which my friend, Mr. Gauba, advanced is this. He said that if the situation improved, the Local Government would modify the notification. Now, the notification, I am told, was issued as soon as the Act was passed, and no chance was given to anybody to see whether it was not possible for the Sessions Judges to cope

[Mr. M. S. Aney.]

with the amount of work that would be thrown on them in case the law was allowed to work in the normal order. 12 years' period has passed, and, even after this period of 12 years, there appears to be no inclination whatsoever on the part of the Punjab Government to bring that practice on the level of other provinces in this matter. Therefore, the case hereafter for anybody to ask this House to wait for the generosity or good will of the Punjab Government. It may not develop even the little that is imported here from the Punjab shows that the tendency is to stick to their own decision rather than to entertain more logical and sane proposals.

Then, there was another argument, and I was a bit surprised to hear it. We were told that the Assistant Sessions Judges, who were recruited in the Punjab, were not discharging their duties properly or that their work did not come quite up to the required standard. Does it require a greater legal acumen for a Sessions Judge to decide an appeal against security proceedings than what is required to decide other appeals? If they can be entrusted with the work of appellate work in more serious criminal cases, if they can be expected to decide many other intricate points of law in civil cases where is the difficulty in entrusting Sessions Judges or their Assistants with the duty of hearing appeals in cases arising out of security proceedings? Their legal acumen can very well be trusted in this matter as well. Therefore, Sir, it seems to me that all the arguments advanced in opposition to the motion made by my friend are not at all valid, and I would, therefore, ask this House to support the motion before the House.

**Mr. N. V. Gadgil** (Bombay Central Division: Non-Muhammadan Rural): I move, Sir, that the question be now put.

**Mr. President** (The Honourable Sir Abdur Rahim): The question is that the question be now put.

The motion was adopted.

**Sardar Sant Singh**: I am very thankful to the Honourable Members who have extended their hearty support to my motion. As it is already a quarter past four, I do not want to move my other motions in order to give room to about 14 other Bills that are to be introduced today. I do not think I shall be justified in acting in a way which may be prejudicial to other Honourable Members who may want to move their motions. So, I will be very brief in my reply.

My Honourable friend, Khan Bahadur Mian Abdul Aziz, Commissioner of Ambala Division, has very kindly, by implication, accepted that there can be no objection to the principle of this Bill. My Honourable friend's objection was that the number of appeals would be so many that it would be difficult for the Sessions Judge to dispose of them, and he gave very interesting figures as to the number of cases that were disposed of by the magistrates in the Punjab, and, that number, according to him, was much more than the number to be found in any other province. The reason for this large number of cases is that the police know that every such case brought before a magistrate will be decided in their favour and the man will be bound thereby. If you take along with it the mentality,—

I must say with very great regret—that has been given expression to by the Honourable the Home Member in this House that the Punjab is a criminal province—you can see that it is not the merits of the case that bind the people down to give security for a number of years, but this is the mentality behind those cases. When I brought this measure in 1933 before the last Assembly, I expected that the common courtesy would be shown to me by sending the speeches made in this House to those who were in charge of the Punjab Government and that they would be circulated among the members of the judiciary and then some sort of opinion would be invited, though my Bill did not succeed that time. But, instead of doing that, I know, and I think I am right when I say that the speeches were not transmitted even to the Honourable Judges of the High Court. If the Government are bent upon treating the opinions expressed in this House by the elected representatives of the people with such contempt, we are bound to come over and over again to express these opinions on the floor of this House, through the press and the platform and to see that we are heard.

Now, the complaint is that I should have moved for the circulation of this Bill. May I ask when I gave notice of this Bill? In the month of December last. The Government knew that this Bill would come up for discussion in this House, and if I mistake not, my Bills were the only Bills of which earliest notice was given. They knew that, and still why did they not circulate and get the opinions from the Local Governments by this time? They should have been ready with those opinions. Therefore, this point is not such as should appeal to the Honourable Members of this House.

Then, my Honourable friend, Khan Bahadur Mian Ahmad Aziz, said that the Civil Justice Committee appreciated the work of the High Court, and through the High Court the work of the Civil Judges in the Punjab. If any appreciation is necessary, I am willing to extend that appreciation so far as the Civil Judges of the Punjab are concerned. They are more independent, more honest and more up to date in their knowledge of the law than I can say about the magistracy of the Punjab. The most honest magistrate in the Punjab openly confesses in private conversation that he has to carry out the behests of the police; otherwise he would not be there. I am talking of those exceptional magistrates whose honesty I can swear in any place, in any temple even. Can it be contended that, with such a magistracy in the Punjab, the Punjab Government can expect less crime than they are getting now? The idea of the Government seems to be that the stricter the magistrate, the more willing agent he is to carry out the behests of the police, and the more corrupt the way in which justice is administered the greater will be his influence upon the people. I beg to differ from that. I tell the Government that if they want to reform the Punjab, if they want to get the Punjab out of this criminality, they should provide for better justice. Let the Punjabis feel that justice is being done to them, and there will be less of crime than it is at present. We are thinking in diametrically opposite ways. I certainly feel humiliated when on the floor of this House such a noble man—I do give willingly the praise due to our Home Member, Sir Henry Craik,—he has been very long in the Punjab and his impartiality is known there,—has openly on the floor of this House stated that the Punjab is a criminal province. Is it not humiliation for all Punjabis who are sitting here?

**The Honourable Sri Henry Craik:** I must with regret interrupt my hon. friend. I am making my suggestion that I said that the Punjab Bill by its terms is quite wrong. What I said was that in the past, when most other provinces of India were under British rule, it had been proved over and over again that it was one province which has more crimes than any other in the West Indian Province.

**Mr. M. A. Jinnah:** Most crimes are committed in the Punjab.

**The Honourable Sri Henry Craik:** There is no suggestion of humilation in my statement. It is common knowledge. The Honourable Member is entitled to say that what I said is humiliated. It is a common knowledge in India.

**Sardar Sant Singh:** I would say my Honourable friend has come to a wrong conclusion. I do mean what I say when I still say that the Punjab feels humiliated when it is said that there is a large number of crimes in the Punjab. May I ask my Honourable friend what justification he had to set the rod or the whips in Bengal if it were not for the fact that there were more crimes in Bengal than in the Punjab?

**A Few Honourable Members:** No, no.

(There were also other interruptions.)

**Mr. President (The Honourable Sri Abdur Rahim):** Order, order. Let the Honourable Member go on with his speech.

**Sardar Sant Singh:** I maintain that if you begin to use more repression even in a good province, you will find an increase in the crime in that province, whether it is the Punjab or Bengal or any other province. That is not only my experience. When the occasion arises I will quote from the greatest jurists of other countries that they support my view.

[At this stage, Major Nawab Ahmad Nawaz Khan rose in his seat.]

**Sardar Sant Singh:** I refuse to give way.

I was saying that some of the Honourable Members from the Punjab got up in reply to a question put by my Honourable friend, Mr. Satyapuri, that they were opposed to this Bill. One of them, my friend, Mr. K. L. Gauba, has explained the position as a lawyer. He is against my Bill, not because it is inherently bad, but because I should have moved for the amendment of the notification. I do not think that was a feasible course but supposing that he honestly believes what he has said, this point could be discussed in the Select Committee. After all, this Bill is not going to be passed today. I ask for its reference to Select Committee only.

I shall now come to the two main questions that were raised by the Honourable the Home Member. He says he has two objections to this Bill. There will be a considerable dislocation of work and financial burden upon the province. When I moved my motion, I referred to this matter and said that where the question of administration of justice was concerned, financial burdens did not matter much. If we can find 17 crores of rupees to build these huge buildings on account of the change of Capital, a few lakhs do not matter. Then, much was made of one

Now, Sir, I will deal only with one point and leave the motion in the hands of the House. I think my Honourable friend will agree with me when I tell him that the District Magistrates are so much worked that they are transferring the ordinary appeal from convictions from second class and third class magistrates to Additional District Magistrates. Is it or is it not a fact in the Punjab? Why burden them with these appeals? Why not change the course of the appeal and send it to the Sessions Judges? With these words, I leave the motion in the hands of the House.

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Khat Sahib D  
 Khat, Dr A B  
 Lanna Chaudhary, M D K  
 Likhari N D M  
 Mutia, Pandit Lakshmi Kanti  
 Mangal Singh, Sairdar.  
 Mohan Mi C N Muthuranga.  
 Muhammad Ahmad Kazmi, Qazi.  
 Murtaza Sahib Bahadur Maulvi  
 Qad  
 Nagawara Rio Mr K  
 Palwal Pandit Sri Kishori Dutta.  
 Pant, Pandit Govind Ballabh  
 Pami Nand Bhu  
 Raghunath Narayan Singh Chaudhri  
 Rajan D T S  
 Raji M P S Kumaraswami  
**Ranga, Prof. N. G.**  
 Sakseena M Mohan Lal.  
 Sant Singh Sarda  
 Satyavanti M. S  
 Shyam Lal Mi  
 Shyam Mi I A K  
 Singh M Deep Narayan.  
 Singh M Ram Narayan  
 Singh M Anand Narayan.  
 Sinha M Saty Narayan.  
 Sri M Siva Kumar.  
 Sri Prakash M  
 Tahir Maung D  
 Usher Mun, I  
 Usha M S D  
 Vani M P G





## THE INDIAN INCOME-TAX (AMENDMENT) BILL

**Mr. Fakir Chand** (Jullundur Division Non-Muhammadan, Sit. I beg to move for leave to introduce a Bill further to amend the Indian Income tax Act, 1922.

**Mr. President** (The Honourable Sir Abdur Rahim) The question is, "That leave be granted to introduce a Bill further to amend the Indian Income tax Act 1922."

The motion was adopted.

**Mr. Fakir Chand:** Sir, I introduce the Bill.

## THE REPRESSIVE LAWS PEPEALING AND AMENDING BILL

**Mr. S. Satyamurti** (M. L. C. City Non-Muhammadan Urban, Sit. I beg to move for leave to introduce a Bill to repeal and amend certain Repressive Laws.

I only want to say that I do not propose to make the motion No. 18\* standing in my name. I gave notice of it. Sir, without knowing that the convention here is that the Government do not oppose Bills at this stage. In reciprocity for this, we do not make any further motion on the same day. I propose to respect that convention as I understand Government respect that convention also.

**Mr. President** (The Honourable Sir Abdur Rahim): The question is, "That leave be granted to introduce a Bill to repeal and amend certain Repressive Laws."

The motion was adopted.

**Mr. S. Satyamurti:** Sir, I introduce the Bill.

## THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL. (AMENDMENT OF SECTION 167.)

**Sardar Sant Singh** (West Punjab Sikh). Sir, I beg to move for leave to introduce a Bill further to amend the Code of Criminal Procedure, 1898 (Amendment of section 167).

**Mr. President** (The Honourable Sir Abdur Rahim): The question is: "That leave be granted to introduce a Bill further to amend the Code of Criminal Procedure, 1898 (Amendment of section 167)."

The motion was adopted.

**Sardar Sant Singh:** Sir, I introduce the Bill.

\*"That the Bill to repeal and amend certain Repressive Laws be referred to a Select Committee consisting of (the names of the members to be mentioned at the time of making the motion) and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be . . ."

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